



Board of Behavioral Sciences



1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
www.bbs.ca.gov

Gavin Newsom, Governor  
State of California

Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

## **BOARD MEETING Notice and Agenda**

**February 28, 2019 – March 1, 2019  
8:30 a.m.**

**Department of Consumer Affairs  
Lou Galiano Hearing Room  
1625 North Market Blvd., #S-102  
Sacramento, CA 95834**

*While the Board intends to webcast this meeting, it may not be possible to webcast the entire meeting due to technical difficulties or limitations on resources. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.*

### **AGENDA**

**Thursday, February 28, 2019  
8:30 a.m.**

- I. Call to Order and Establishment of Quorum
- II. Public Comment for Items Not on the Agenda  
*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Gov. Code §§ 11125, 1125.7(a)]*
- III. Suggestions for Future Agenda Items
- IV. Petition for Modification of Probation for Karin Karim Awad, LMFT 102646
- V. Petition for Modification of Probation for Melissa Croley (Jones), LMFT 100851
- VI. Petition for Modification of Probation for Danielle Everly, AMFT 102573
- VII. Petition for Early Termination of Probation for Valeri Rachelle Trezise, LMFT 102694

**CLOSED SESSION**

- VIII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions

**RECONVENE IN OPEN SESSION**

- IX. Recess Until 8:30 a.m., Friday, March 1, 2019

**AGENDA**  
**Friday, March 1, 2019**  
**8:30 a.m.**

- X. Call to Order, Establishment of Quorum, and Introductions\*
- XI. Petition for Modification of Probation for Agustin Ulysses Garcia, AMFT 104127
- XII. Petition for Early Termination of Probation for Terresa Jeanne Lauer, LMFT 47862

**CLOSED SESSION**

- XIII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions

**RECONVENE IN OPEN SESSION**

- XIV. Department of Consumer Affairs Update
  - a. Status of Executive Officer Salary Study
  - b. Other Departmental Activities
- XV. Presentation by Pearson Vue, Computer Based Testing Administrator
- XVI. Consent Calendar
  - a. Approval of the November 28-30, 2018 Board Meeting Minutes
  - b. Approval of the January 11, 2019 Board Meeting Minutes
- XVII. Board Chair Report
  - a. Board Member Activities
  - b. Recognition of Board Staff Years of Service
- XVIII. Executive Officer Report
  - a. Budget Report
  - b. Operations Report
  - c. Personnel Report
  - d. Strategic Plan Update
- XIX. Update on Fee Audit
- XX. Discussion and Possible Action Regarding the Policy and Advocacy Committee Recommendations
  - a. Recommendation #1 Approve Additional Edits to Proposed Revisions to *Professional Therapy Never Includes Sex Information Brochure*

- b. Recommendation #2 Approve Proposal to Amend Business and Professions Code Sections 4980.36 and 4980.37 Adding Clinical Mental Health Counseling Degree Title
  - c. Recommendation #3 Approve Proposed Rulemaking to Implement Assembly Bill 2138 Substantially Relationship and Rehabilitation Criteria
- XXI. Discussion and Possible Action Regarding License Portability Bill Proposal
- XXII. Discussion and Possible Action Regarding Business and Professions Code Sections 4980.43.4, 4996.23.3, and 4999.46.4: Pre-Licensee Service Locations
- XXIII. Update on Board Sponsored Legislation
- XXIV. Update on Board Rulemaking Proposals
- XXV. Public Comment for Items Not on the Agenda
- Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Gov. Code §§ 11125, 1125.7(a)]*
- XXVI. Suggestions for Future Agenda Items
- XXVII. Adjournment
- 

*\*Introductions are voluntary for members of the public.*

*Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times and order of items are approximate and subject to change. Action may be taken on any item listed on the Agenda.*

*This agenda as well as Board meeting minutes can be found on the Board of Behavioral Sciences website at [www.bbs.ca.gov](http://www.bbs.ca.gov).*

*NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.*



Board of Behavioral Sciences

# Memo

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1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members **Date:** February 20, 2019  
**From:** Christina Kitamura  
Administrative Analyst **Telephone:** (916) 574-7835  
**Subject:** **Agenda Item XVI.a.: Approval of the November 28-30, 2018 Board Meeting Minutes**

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Agenda item XVI.a. will be provided in a supplemental package and will be posted on the website at that time.

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## BOARD MEETING MINUTES

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**DATE** January 11, 2019

**LOCATIONS** Department of Consumer Affairs  
Mendocino Room  
1625 North Market Blvd., Suite S-210  
Sacramento, CA 95834

510 W. Main St., Suite 110  
El Centro, CA 92243

800 N. State College Blvd.  
Education Classroom Bldg., Room 425  
Fullerton, CA 92831

1234 Wilshire Blvd., Unit 440  
Los Angeles, CA 90017

3220 Mission Ave., Suite 2  
Oceanside, CA 92058

343 Yolo St.  
Orland, CA 95963

459 E. Avenida Palmera  
Palm Springs, CA 92264

**TIME** 9:00 a.m.

**ATTENDEES**

**Members Present:** Betty Connolly, Chair, LEP Member  
Max Disposti, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Deborah Brown, Public Member  
Dr. Peter Chiu, Public Member  
Jonathan Maddox, LMFT Member

1 Vicka Stout, LMFT Member  
2 **Staff Present:** Sabina Knight, Legal Counsel  
3 Christina Kitamura, Administrative Analyst  
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5 **Other Attendees:** None  
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8 **FULL BOARD OPEN SESSION**  
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10 **I. Call to Order and Establishment of Quorum**

11 Betty Connolly, Board of Behavioral Sciences (Board) Chair, called the meeting to order  
12 at 9:00 a.m. Christina Kitamura called roll, and a quorum was established. There were  
13 no members of the public in attendance at the teleconference sites.  
14

15 **II. Public Comment for Items Not on the Agenda**

16 None  
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18 **III. Suggestions for Future Agenda Items**

19 None  
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21  
22 **CLOSED SESSION**  
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25 **IV. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in**  
26 **Closed Session for Discussion and to Take Action on Disciplinary Matters**  
27

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28  
29 **RECONVENE IN OPEN SESSION**  
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31 **V. Adjournment**

32 The meeting 9:20 a.m.  
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**2018/2019 Budget**

The Board's budget for fiscal year (FY) 2018/2019 is \$12,623,000.

The attached expenditure log reflects the information currently available to the Board.

<b>Expense Category</b>	<b>Amount</b>	<b>Percentage</b>
Personnel	\$2,757,232	22%
OE&E	\$ 3,288,072	26%
Enforcement	\$ 732,594	6%
<b>Total Expenses</b>	<b>\$ 6,777,898</b>	<b>54%</b>

As reported previously, on July 1, 2017, the Department of Consumer Affairs transitioned to a new system for budgets, account, and procurements – FI\$Cal. The transition continues to be challenging in terms of timely reports.

During the September 2018 Board Meeting, these challenges and DCA's efforts to resolve the them were reported. Specifically, the DCA Budget Office estimated that the fiscal year end reports would be available in March 2019. A recent update from the DCA Budget Office indicates that work on the fiscal year end project will conclude at the end of March 2019.

**General Fund Loans**

The Board's Fund Condition report reflects a \$3.3 million loan repayment in FY 2018/2019. This is the final payment of the \$12.3 million dollars previously loaned to the General Fund.

**Board Fund Condition**

The Board's Fund Condition for FY 2018/2019 reflects a 4.5-month reserve.

**Governor's 2019/2020 Budget**

On January 10, 2019, Governor Newsom released the proposed 2019/2020 California budget. Two proposals directly affect the Board. The first proposal is a Board request to permanently establish two positions in the cashiering and examination unit. These positions are currently limited term positions which will expire on June 30, 2019. This request allows the Board to permanently retain the positions and maintain existing processing times in these units on an ongoing basis.

The second proposal is DCA's request for an additional 24.5 positions for DCA services. These services include 7 positions for the DCA Business Service Office and Fiscal Operations; 8 positions for DCA Legal, 4.5 positions for Division of Investigations; 2 positions for the Office of Professional Examination Services; and funding to permanently establish 3 positions in the Office of Human Resources.

According to the budget document, DCA indicates that initially, it will require \$5.2 million in fiscal year 2019/2020; \$4.5 million in fiscal year 2020/2021; and \$3.6 million in fiscal year 2021/2022 and ongoing to fund the 24.5 positions. DCA states that of the amount requested, \$2.9 million dollars will be funded through pro rata. The Board's pro rata share will be \$113,000.

The Board's 2018/2019 total pro rata costs are \$2,627,000 or 21% of the Board's budget. The Board's 2019/2020 pro rata costs are estimated at \$2,478,000. The reduction in pro rata expenses is largely attributed to the conclusion of the BreEZe vendor contract. This \$181,000 reduction in addition to other pro rata adjustments will offset the additional pro rata costs associated with the new DCA positions. These adjustments maintain the Board's pro rata costs at 21% of its budget.

**BOARD OF BEHAVIORAL SCIENCES  
FY 2018-19 BUDGET REPORT  
FM6**

Based on 1/31 Activity Log

OBJECT DESCRIPTION	FY 2017-18		FY 2018-19				
	ACTUAL	PRIOR YEAR	CY REVISED	CURRENT YEAR	PERCENT	PROJECTIONS	UNENCUMBERED
	EXPENDITURES	EXPENDITURES	BUDGET	EXPENDITURES			
(Prelim FM12)	(MONTH 6)	2018-19	(1/31 Activity Log)	SPENT			
<b>PERSONNEL SERVICES</b>							
Salary & Wages (Staff)	2,772,619	1,355,517	3,288,000	1,538,058	47%	3,092,208	195,792
Temp Help	282,247	127,936	0	126,494	0%	246,049	(246,049)
Statutory Exempt (EO)	108,288	54,144	91,000	56,310	62%	112,620	(21,620)
Board Member Per Diem	16,600	4,800	13,000	3,500	27%	12,000	1,000
Overtime/Flex Elect	104,857	49,462	2,000	2,272	114%	5,000	(3,000)
Staff Benefits	1,758,138	860,797	2,038,000	1,030,598	51%	2,067,000	(29,000)
<b>TOTALS, PERSONNEL SVC</b>	<b>5,042,749</b>	<b>2,452,656</b>	<b>5,432,000</b>	<b>2,757,232</b>	<b>51%</b>	<b>5,534,877</b>	<b>(102,877)</b>
<b>OPERATING EXPENSE AND EQUIPMENT</b>							
General Expense	151,532	107,116	81,000	207,639	256%	195,000	(114,000)
Printing	110,545	93,957	26,000	47,996	185%	70,000	(44,000)
Communication	22,060	10,737	18,000	2,520	14%	5,000	13,000
Postage	76,370	2,149	70,000	18,362	26%	38,000	32,000
Insurance	17,250	0	0	0	0%	0	0
Travel In State	60,481	35,135	59,000	6,461	11%	30,000	29,000
Travel, Out-of-State	607	607	72,000	767	1%	2,000	70,000
Training	2,702	2,064	28,000	1,250	4%	3,000	25,000
Facilities Operations	441,988	144,849	228,000	206,351	91%	356,000	(128,000)
Utilities	0	0	4,000	0	0%	0	4,000
C & P Services - Interdept.	1,379,377	374,315	1,980,000	732,594	37%	1,966,000	14,000
C & P Services - External	891,833	228,397	1,210,000	1,267,771	105%	997,000	213,000
DCA Pro Rata	2,576,648	1,035,678	2,627,000	1,313,500	50%	2,627,000	0
DOI - Investigations	555,300	277,650	430,000	215,000	50%	430,000	0
Interagency Services	0	0	1,000	0	0%	0	1,000
IA w/ OPES	323,944	0	325,000	0	0%	325,000	0
Consolidated Data Center	16,909	2	29,000	1	0%	17,000	12,000
Information Technology	2,769	1,026	14,000	0	0%	3,000	11,000
Equipment	39,980	9,206	20,000	455	2%	20,000	0
Other Items of Expense	1,125	1,125	0	0	0%	0	0
Vehicle Operations	0	0	19,000	0	0%	0	19,000
<b>TOTALS, OE&amp;E</b>	<b>6,671,420</b>	<b>2,324,013</b>	<b>7,241,000</b>	<b>4,020,667</b>	<b>56%</b>	<b>7,084,000</b>	<b>157,000</b>
<b>TOTAL EXPENSE</b>	<b>11,714,169</b>	<b>4,776,669</b>	<b>12,673,000</b>	<b>6,777,899</b>	<b>53%</b>	<b>12,618,877</b>	<b>54,123</b>
Sched. Reimb. - Fingerprints	(10,535)	(6,016)	(24,000)	(11,856)	49%	(24,000)	0
Sched. Reimb. - Other	(574)	0	(26,000)	0	0%	(26,000)	0
Unsched. Reimb. - Other	(242,086)	(128,193)	0	(184,108)	0%	0	0
<b>NET APPROPRIATION</b>	<b>11,460,974</b>	<b>4,642,460</b>	<b>12,623,000</b>	<b>6,581,935</b>	<b>52%</b>	<b>12,568,877</b>	<b>54,123</b>

SURPLUS/(DEFICIT): 0.4%

# 0773 - Behavioral Science Analysis of Fund Condition

Prepared 1.24.2018

(Dollars in Thousands)

## Governor's Budget

	PY 2017-18	CY 2018-19	Governor's Budget BY 2019-20	BY+1 2020-21	BY+2 2021-22	BY+3 2022-23
<b>BEGINNING BALANCE</b>	\$ 5,647	\$ 5,165	\$ 4,814	\$ 1,284	\$ -2,461	\$ -6,456
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2
Adjusted Beginning Balance	\$ 5,647	\$ 5,165	\$ 4,814	\$ 1,284	\$ (2,461)	\$ (6,454)
<b>REVENUES AND TRANSFERS</b>						
Revenues:						
4129200 Other regulatory fees	\$ 176	\$ 221	\$ 228	\$ 228	\$ 228	\$ 228
4129400 Other regulatory licenses and permits	\$ 3,770	\$ 3,637	\$ 3,637	\$ 3,637	\$ 3,637	\$ 3,637
4127400 Renewal fees	\$ 5,213	\$ 5,268	\$ 5,268	\$ 5,268	\$ 5,268	\$ 5,268
4121200 Delinquent fees	\$ 100	\$ 93	\$ 93	\$ 93	\$ 93	\$ 93
4163000 Income from surplus money investments	\$ 9	\$ 14	\$ 19	\$ 40	\$ 31	\$ 19
4172500 Miscellaneous revenues	\$ 4	\$ 11	\$ 11	\$ 11	\$ 11	\$ 11
Totals, Revenues	\$ 9,272	\$ 9,244	\$ 9,256	\$ 9,277	\$ 9,268	\$ 9,256
Transfers from Other Funds						
F00001 GF loan repayment per item 1110-011-0773 BA of 2008	\$ 3,000	\$ -	\$ -	\$ -	\$ -	\$ -
F00001 GF loan repayment per item 1110-011-0773 BA of 2011	\$ -	\$ 3,300	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 12,272	\$ 12,544	\$ 9,256	\$ 9,277	\$ 9,268	\$ 9,256
Totals, Resources	\$ 17,919	\$ 17,709	\$ 14,070	\$ 10,561	\$ 6,807	\$ 2,802
<b>EXPENDITURES</b>						
Disbursements:						
1111 Department of Consumer Affairs Regulatory Boards, Bureaus, Divisions (State Operations)	\$ 12,047	\$ 11,837	\$ 11,823	\$ 12,059	\$ 12,300	\$ 12,546
8880 Financial Information System for California (State Operations)	\$ 15	\$ 1 #	\$ -3	\$ -3	\$ -3	\$ -3
9892 Supplemental Pension Payment (State Operations)	\$ -	\$ 100	\$ 212	\$ 212	\$ 212	\$ 212
9900 Statewide General Administrative Expenditures (Pro Rata) (State Operations)	\$ 692	\$ 957	\$ 754	\$ 754	\$ 754	\$ 754
Total Disbursements	\$ 12,754	\$ 12,895	\$ 12,786	\$ 13,022	\$ 13,263	\$ 13,509
<b>FUND BALANCE</b>						
Reserve for economic uncertainties	\$ 5,165	\$ 4,814	\$ 1,284	\$ -2,461	\$ -6,456	\$ -10,707
<b>Months in Reserve</b>	4.8	4.5	1.2	-2.2	-5.7	-9.3



**Board Statistics**

Attached for your review are the quarterly performance statistics for the second quarter of FY 2018/2019.

**Licensing Program**

Overall, application volumes decreased 46% in the second quarter of FY 2018/2019.

**Application Volumes**

Application Type	2 <sup>nd</sup> Quarter 10/1/18-12/31/18	1 <sup>st</sup> Quarter 7/1/18 – 9/30/18	Difference
AMFT Registration	465	1214	-62%
AMFT Registration Subsequent Number	160	200	-20%
LMFT Examination	673	841	-20%
ASW Registration	413	1271	-68%
ASW Registration Subsequent Number	121	161	-25%
LCSW Examination	514	559	-8%
LEP Examination	32	48	-33%
APCC Registration	174	465	-63%
APCC Registration Subsequent Number	1	3	-67%
LPCC Examination	55	70	-21
<b>Total Applications</b>	<b>2608</b>	<b>4832</b>	<b>-46%</b>

**Days to Process Applications**

License Type	2 <sup>nd</sup> Quarter 10/1/18 – 12/31/18	1 <sup>st</sup> Quarter 7/1/18 – 9/30/18	Difference
AMFT Registration	11 days	12 days	-1 days
LMFT Examination	43 days	31 days	+12 days
ASW Registration	9 days	9 days	0 days
LCSW Examination	25 days	31 days	-6 days
LEP Examination	9 days	7 days	+2 days
APCC Registration	11 days	16 days	-5 days
LPCC Examination	13 days	10 days	+3 days

A total of 1,200 initial licenses were issued in the second quarter. As of January 1, 2019, the Board has 115,253 licensees and registrants. This figure includes all licenses that have been issued that are current and/or eligible to renew.

<b>LICENSE POPULATION (As of 1/01/2019)</b>				
<b>License Type</b>	<b>Active</b>	<b>Current In-Active</b>	<b>Delinquent</b>	<b>Total Population</b>
<b>Registrants</b>				
AMFT	13,083	N/A	4,284	17,367
ASW	11,943	N/A	4,177	16,120
APCC	2,601	N/A	1,330	3,931
<b>Total Registrant</b>	<b>27,627</b>	<b>N/A</b>	<b>9,791</b>	<b>37,418</b>
<b>Licensees</b>				
LMFT	37,519	4,165	7,892	45,292
LCSW	24,329	2,389	1,978	28,696
LEP	1,341	431	273	2,045
LPCC	1,627	133	82	1,802
<b>Total Licensee</b>	<b>64,816</b>	<b>7,118</b>	<b>10,225</b>	<b>77,835</b>
<b>Total Population</b>	<b>92,443</b>	<b>7,118</b>	<b>15,732</b>	<b>115,253</b>

### **Examination Program**

Attached for your review are the examination statistics by school. A total 4,530 examinations were administered in the second quarter.

	<b>2nd Qtr</b>				<b>1<sup>st</sup> Qtr</b>			
	<b>10/01/18-12/31/18</b>				<b>7/1/18-9/30/18</b>			
	<b>Total Exams</b>	<b>Pass %</b>	<b>First Time</b>	<b>Pass %</b>	<b>Total Exams</b>	<b>Pass %</b>	<b>First Time</b>	<b>Pass %</b>
<b>LMFT L/E*</b>	1,136	82%	735	87%	1,460	76%	989	81%
<b>LMFT Clinical*</b>	1,182	60%	787	70%	1,308	62%	878	72%
<b>LCSW L/E*</b>	953	74%	692	77%	1,447	80%	1,088	82%
<b>LCSW ASWB</b>	881	61%	609	75%	859	63%	601	76%
<b>LPCC L/E*</b>	250	68%	175	70%	309	64%	245	67%
<b>LPCC NCMHCE</b>	79	58%	62	58%	74	78%	61	79%
<b>LEP*</b>	49	53%	29	69%	51	53%	34	56%

*^Total includes paper/pencil exams      \*Board developed examination*

Ten examination development workshops were conducted from October 1, 2018 to December 31, 2018.

During the routine exam analysis of the LMFT Clinical Examination, OPES identify test items that were not performing as expected. To mitigate, a rescore of the exam was conducted that

resulted in 15 more candidates receiving a passing score. The Board notified the affected candidates and they are all now licensed.

Board staff continues to work diligently with OPES staff to develop additional materials to add to the Board's website to better inform candidates of how items are developed for all Board examinations developed by OPES.

OPES continues work on the LMFT Occupational Analysis. The occupational analysis is a study of the profession and provides the bases for the LMFT Written Clinical licensing examination. As part of the process, a survey will be available online at the end of August 2019.

The input of licensees is very important to the occupational analysis process, and the Board is inviting all LMFT licensees who are interested to participate. All LMFT licensees who have an email on file with the Board will be sent a link to the survey. If a LMFT would like to participate, please update or add your email address with the Board before July 1, 2019. Additionally, the link will be available on the Board's website.

**Administration Program**

The Board received 8,036 applications in the second quarter, a 21% decrease since last quarter. This figure does not include renewal applications. The chart below reflects the total renewal activity for the first quarter.

Effective October 1, 2018, the Board revised its renewal notification process. All licensees and registrants will receive a renewal notification with instructions to renew online. A paper renewal coupon is not included in the renewal notification. This new process ensures all renewals are complete and renewal candidates receive a new expiration date as soon as the process is completed.

<b>RENEWAL ACTIVITY</b>		
	<b>Number of Renewals</b>	<b>Percentage</b>
DCA Processed	543	3%
BBS Processed	491	3%
Online Renewal	16,689	94%
<b>Total</b>	<b>17,723</b>	

**Enforcement Program**

During the second quarter, the Enforcement staff received 405 consumer complaints and 299 criminal convictions. A total of 632 cases were closed and 37 cases were referred to the Attorney General's office for formal discipline. As of December 31, 2018, there were 167 cases pending at the Attorney General's Office. A total of 21 Accusations and 19 Statement of Issues were filed this quarter. The number of final citations for the second quarter was 40.

A total of 62 decisions were adopted. The average number of days to complete Formal Discipline in the second quarter was 506 days. The year to date average is 506 days. This statistic is measured from the date the Board receives the complaint to the date the discipline becomes effective. The DCA Performance Measure to complete Formal Discipline is 540 days.

The average number of days the case is with the Attorney General's Office in the second quarter was 318. The year to date average is 332 days. This statistic is measured from the date the Board refers the matter to the Attorney General's to the date the case is complete. The average number of days to complete all Board investigations in the second quarter was 106 days. The year to date average is 100 days.

**Continuing Education Audits**

In 2018 Board staff conducted 405 Continuing Education Audits. The results of the audits are reflected in the chart below. Overall, 68% of the licensees passed the audit and 32% did not pass.

2018 AUDIT RESULTS

License	Pass	Fail	Pending	% Pass	% Fail	% Pending
LMFT	235	115	0	67%	33%	0
LCSW	151	63	0	71%	29%	0
LEP	8	7	0	53%	47%	0
LPCC	11	5	0	69%	31%	0
TOTAL	405	190	0	68%	32%	0

190 (32%) licensees did not pass the Continuing Education Audit for the following reasons.

- 70 licensees - A combination of completing hours late, short hours, or using invalid providers.
- 43 licensees did not complete the required 6-hr Law and Ethics course.
- 29 licensees completed courses from invalid providers.
- 21 licensees were missing HIV and/or Law & Ethics (1<sup>st</sup> renewal requirement).
- 17 licensees did not respond to the Board's request.
- 10 licensees did not complete any continuing education hours.

Board staff initiated the 2019 Continuing Education Audits in mid-January. The initial 2019 request was directed to Licensed Marriage and Family Therapists. The remaining licensees will receive notification late February.



## 2019 AUDIT RESULTS

License	Pass	Fail	Pending	% Pass	% Fail	% Pending
LMFT	48	11	23	59	13%	28%

Eleven (11) licensees did not pass the Continuing Education Audit for the following reasons:

- 2 licensees did not complete the full 6-hr Law & Ethics course.
- 1 licensee took courses from invalid providers.
- 3 licensees were missing HIV and/or Law & Ethics (1<sup>st</sup> renewal requirement).
- 1 licensee did not complete any continuing education hours.
- 4 licensees completed the continuing education hours after audit request.

### **Outreach Activity**

The Board's Outreach Activity subsided over the summer months. Board staff either physically attended the following events or participated via a phone conference.

October 26, 2018	NASW Annual Conference
November 9, 2018	CASP Annual Conference
December 10, 2018	Central Coast MFT Consortium

### **Board Move Update**

Construction on the Board's new suite began on January 20, 2019. The renovations include separate file rooms for licensing and enforcement; a cashiering room; energy saving LED lights throughout the suite; a conference room with seating for 10; a dedicated breakroom for staff; a larger front counter/lobby area; and separate public and employee entrances into the suite.

The suite will be painted, and new flooring will be installed where needed. The windows will be treated with a product to reduce the heat from the direct sunlight. Additionally, electronic sit/stand desks were purchased for staff that desired this product. The Board set aside \$435,000 for this project. Current expenditure projections indicate the Board will not exceed this figure.

The date for the final walk through is scheduled for March 8, 2019. Board staff will move into the new suite shortly after this date.

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## QUARTERLY STATISTICAL REPORT FY 2018-2019

This report provides statistical information relating to various aspects of the Board's business processes. Statistics are grouped by unit.

### CASHIERING

Renewals Processed In-House	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
Received	170	246	232	160	184	147							1139
Closed	163	186	271	229	185	178							1212

Renewals Processed By DCA Central Cashiering	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
Received	862	468	305	324	164	55							2178
Closed	1031	624	387	417	263	117							2839

Online Transactions	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
Online Renewals	3716	4487	3875	4271	4325	3768							24442
Online Cert Reorder	173	312	202	228	162	143							1220
Address Changes	946	1079	917	970	805	799							5516
<b>TOTAL</b>	4835	5878	4994	5469	5292	4710							31178

Application Payments Processed In-House**	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
Received	3879	3292	3116	3820	2302	1914							18323
Closed	3683	3679	3260	2967	1995	1959							17543

*\*\*These totals represent all other applications and do not include renewal applications*

## LICENSING

The Board's Licensing Unit evaluates applications for registration and examination eligibility. This involves verifying educational and experience qualifications to ensure they meet requirements defined in statute and regulation.

<b>LMFT Law &amp; Ethics Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Received</b>	268	311	262	187	188	156							<b>1372</b>
<b>Approved</b>	240	286	307	244	172	146							<b>1395</b>
<b>LCSW Law &amp; Ethics Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Received</b>	327	265	242	176	193	149							<b>1352</b>
<b>Approved</b>	299	267	280	230	186	119							<b>1381</b>
<b>LPCC Law &amp; Ethics Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Received</b>	71	79	58	52	49	55							<b>364</b>
<b>Approved</b>	55	91	64	94	41	38							<b>383</b>

<b>TOTAL Law &amp; Ethics Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Received</b>	666	655	562	415	430	360							<b>3088</b>
<b>Approved</b>	594	644	651	568	399	303							<b>3159</b>

<b>LMFT Licensure &amp; Exam Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	306	274	220	221	230	222							1473
Approved	274	249	225	248	216	222							1434
Process Time	35	31	28	38	43	47							37
<b>LCSW Licensure &amp; Exam Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	179	187	193	139	190	185							1073
Approved	214	244	194	218	189	209							1268
Process Time	27	32	33	26	25	23							28
<b>LPCC Licensure &amp; Exam Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	25	21	24	20	23	12							125
Approved	15	29	21	21	18	17							121
Process Time	10	16	14	9	8	13							12
<b>LEP Examination Eligibility Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	15	17	16	8	13	11							80
Approved	12	14	17	11	0	0							54
Process Time	6	8	7	7	11	10							8

<b>TOTAL Licensure &amp; Exam Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	525	499	453	388	456	430							2751
Approved	515	536	457	498	423	448							2877
Avg. Process Time	20	22	21	20	22	23							21

<b>AMFT Registration Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Initial Received</b>	467	336	411	213	145	107							<b>1679</b>
<b>Sub. Received</b>	71	76	53	48	55	57							<b>360</b>
<b>Approved</b>	373	589	469	453	203	202							<b>2289</b>
<b>Process Time</b>	11	12	12	9	11	13							<b>11</b>
<b>ASW Registration Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Initial Received</b>	660	349	262	151	157	105							<b>1684</b>
<b>Sub. Received</b>	64	44	53	55	44	22							<b>282</b>
<b>Approved</b>	842	558	342	334	187	159							<b>2422</b>
<b>Process Time</b>	8	8	12	9	9	9							<b>9</b>
<b>APCC Registration Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Initial Received</b>	199	145	121	77	55	42							<b>639</b>
<b>Sub. Received</b>	2	0	1	0	1	0							<b>4</b>
<b>Approved</b>	138	182	128	137	58	39							<b>682</b>
<b>Process Time</b>	17	17	14	11	8	13							<b>13</b>

<b>TOTAL Registration Applications</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
<b>Initial Received</b>	1326	830	794	441	357	254							<b>4002</b>
<b>Sub. Received</b>	137	120	107	103	100	79							<b>646</b>
<b>Approved</b>	1353	1329	939	924	448	400							<b>5393</b>
<b>Avg. Process Time</b>	12	12	13	10	9	12							<b>11</b>

## EXAMINATION

The Board's Examination Unit processes complaints and performs other administrative functions relating to the Board's examination processes.

Examinations Administered	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
LCSW L&E	580	532	335	380	287	285							2399
LMFT L&E	516	522	422	434	376	325							2595
LPCC L&E	94	119	96	88	83	79							559
TOTAL L & E	1190	1173	853	902	746	689							5553
ASWB Clinical	321	289	249	333	274	272							1738
LMFT Clinical	491	430	387	374	419	387							2488
LPCC NCMHCE	29	20	25	26	0	0							100
LEP	22	20	9	20	16	13							100
<b>Total Exams Administered</b>	<b>2053</b>	<b>1932</b>	<b>1523</b>	<b>1655</b>	<b>1455</b>	<b>1361</b>							<b>9979</b>
<b>Examination Workshops</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>3</b>	<b>3</b>	<b>2</b>							<b>20</b>

Initial Licenses Issued	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	YTD
LMFT	333	274	313	214	156	188							1478
LCSW	195	231	238	185	182	189							1220
LEP	17	11	5	15	4	7							59
LPCC	21	24	18	24	21	15							123
<b>TOTAL</b>	<b>566</b>	<b>540</b>	<b>574</b>	<b>438</b>	<b>363</b>	<b>399</b>							<b>2880</b>

## ENFORCEMENT

The Board's Enforcement Unit investigates consumer complaints and reviews prior and subsequent arrest reports for registrants and licensees. The pending total is a snapshot of all pending items at the close of a quarter.

<b>Complaints (Complaint Intake*)</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	147	146	139	166	131	108							837
Closed without Assignment for Investigation	55	71	21	80	74	41							342
Assigned for Investigation	115	93	80	118	78	64							548
Average Days to Close or Assigned for Investigation	12	8	7	10	11	7							9
Intake Pending	34	20	66	43	23	24							210

<b>Convictions/Arrest Reports</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Received	151	144	126	151	72	76							720
Closed / Assigned for Investigation	0	0	0	0	0	0							0
Assigned for Investigation	151	159	133	149	76	87							755
Average Days to Close	2	4	2	2	3	7							3
Intake Pending	12	2	0	3	3	3							23

**Complaint Intake \***      Complaints Received by the Program



**INVESTIGATION\*\***

<b>Desk Investigation</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Assigned	283	267	223	292	170	159							1394
Closed	225	306	231	313	168	210							1453
Average Days to Close	32	44	42	43	43	40							41
Pending	343	314	311	276	276	232							
<b>Field Investigation (Non-Sworn)</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Assigned	1	3	16	4	2	5							31
Closed	2	13	0	6	4	3							28
Average Days to Close	206	151	0	78	24	310							128
Pending	22	12	28	26	24	27							
<b>Field Investigation (Sworn)</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
Assigned	0	0	2	0	1	0							3
Closed	0	0	1	1	0	0							2
Average Days to Close	0	0	80	211	0	0							49
Pending	5	5	6	5	6	6							
<b>All Investigations</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
First Assignments	284	270	239	296	172	164							1425
Closed	227	319	231	319	172	213							1481
Average Days to Close	119	98	61	110	34	175							100
Pending	365	326	339	302	300	259							

**Investigations \*\***

Complaints investigated by the program whether by desk investigation or by field investigation.

Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.

If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.

If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

<b>ENFORCEMENT ACTIONS</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>YTD</b>
AG Cases Initiated	19	16	13	20	10	7							85
AG Cases Pending	204	207	209	188	192	167							
SOIs Filed	3	11	2	6	9	4							35
Accusations Filed	7	13	9	10	5	6							50
Proposed/Default Decisions Adopted	10	4	5	0	13	3							35
Stipulations Adopted	6	8	7	5	21	8							55
<b>Disciplinary Orders</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	23	20	20	6	41	15							125
<b>AG Cycle Time</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	<b>Average</b>
AG Transmittal	617	472	497	465	525	459							506
Post AG Transmittal	355	370	313	289	346	318							332

<b>Citations</b>	<b>Jul-18</b>	<b>Aug-18</b>	<b>Sep-18</b>	<b>Oct-18</b>	<b>Nov-18</b>	<b>Dec-18</b>	<b>Jan-19</b>	<b>Feb-19</b>	<b>Mar-19</b>	<b>Apr-19</b>	<b>May-19</b>	<b>Jun-19</b>	
Final Citations	3	32	6	28	7	5							81
Average Days to Complete****	95	21	63	36	53	127							66

**Disciplinary Orders Average Days to Complete \*\*\***

Measured by the date the complaint is received to the date the order became effective.

**Citations \*\*\*\***

Measured by the date the complaint is received to the date the citation was issued.

**AG Transmittal**

Average number of days to complete the Enforcement Process for cases investigated and transmitted to the AG for formal discipline within the referenced period.

**Post AG Transmittal**

The average number of days from the date the case is transmitted to the AG to the date of the case outcome or formal discipline effective date.

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

**LICENSE TYPE: LCSW**

**EXAM: LCSW Clinical Exam (ASWB)**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University, Azusa	103	12	8	67%	4	33%	8	8	100%	0	0%
California State University, Bakersfield	002	18	9	50%	9	50%	10	7	70%	3	30%
California State University, Chico	003	19	9	47%	10	53%	13	8	62%	5	38%
California State University, Dominguez Hills	004	14	4	29%	10	71%	7	3	43%	4	57%
California State University, Fresno	005	20	7	35%	13	65%	11	5	45%	6	55%
California State University, Fullerton	006	26	20	77%	6	23%	25	20	80%	5	20%
California State University, Hayward	007	28	17	61%	11	39%	22	16	73%	6	27%
California State University, Long Beach	008	66	33	50%	33	50%	32	22	69%	10	31%
California State University, Los Angeles	009	45	21	47%	24	53%	26	16	62%	10	38%
California State University, Northridge	010	26	17	65%	9	35%	23	17	74%	6	26%
California State University, Sacramento	011	52	36	69%	16	31%	34	28	82%	6	18%
California State University, San Bernardino	012	24	13	54%	11	46%	18	10	56%	8	44%
California State University, Stanislaus	013	35	19	54%	16	46%	26	16	62%	10	38%
Humboldt State University, Arcata	014	6	3	50%	3	50%	6	3	50%	3	50%
Loma Linda University, Orinda	125	16	6	38%	10	62%	9	3	33%	6	67%
OUT-OF-COUNTRY	400	8	3	38%	5	62%	3	2	67%	1	33%

Feb 4, 2019

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Out-of-State	300	121	90	74%	31	26%	90	79	88%	11	12%
San Diego State University	015	33	32	97%	1	3%	31	30	97%	1	3%
San Francisco State University	016	20	8	40%	12	60%	10	8	80%	2	20%
San Jose State University	017	45	26	58%	19	42%	28	17	61%	11	39%
San Marcos University	019	1	1	100%	0	0%	1	1	100%	0	0%
UC, Berkeley	050	16	16	100%	0	0%	16	16	100%	0	0%
UC, Los Angeles	052	26	23	88%	3	12%	21	21	100%	0	0%
University of Southern California, Los Angeles	145	204	119	58%	85	42%	139	98	71%	41	29%

**LCSW Clinical Exam (ASWB) TOTAL: 881 540 61% 341 39% 609 454 75% 155 25%**

**EXAM: LCSW Law and Ethics**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University, Azusa	103	15	9	60%	6	40%	13	8	62%	5	38%
California State University, Bakersfield	002	16	10	62%	6	38%	9	7	78%	2	22%
California State University, Chico	003	11	7	64%	4	36%	5	3	60%	2	40%
California State University, Dominguez Hills	004	18	14	78%	4	22%	14	11	79%	3	21%
California State University, Fresno	005	16	12	75%	4	25%	11	8	73%	3	27%
California State University, Fullerton	006	13	12	92%	1	8%	11	10	91%	1	9%
California State University, Hayward	007	42	27	64%	15	36%	26	20	77%	6	23%
California State University, Long Beach	008	63	42	67%	21	33%	41	28	68%	13	32%
California State University, Los Angeles	009	40	31	78%	9	22%	26	22	85%	4	15%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Angeles											
California State University, Northridge	010	37	28	76%	9	24%	29	22	76%	7	24%
California State University, Sacramento	011	46	30	65%	16	35%	35	28	80%	7	20%
California State University, San Bernardino	012	21	17	81%	4	19%	16	13	81%	3	19%
California State University, Stanislaus	013	26	20	77%	6	23%	16	14	88%	2	12%
Humboldt State University, Arcata	014	7	6	86%	1	14%	4	3	75%	1	25%
Loma Linda University, Orinda	125	7	6	86%	1	14%	2	1	50%	1	50%
Monterey Bay State University	018	5	3	60%	2	40%	4	3	75%	1	25%
OUT-OF-COUNTRY	400	16	6	38%	10	62%	7	4	57%	3	43%
Out-of-State	300	236	189	80%	47	20%	190	151	79%	39	21%
San Diego State University	015	25	21	84%	4	16%	22	19	86%	3	14%
San Francisco State University	016	19	10	53%	9	47%	8	6	75%	2	25%
San Jose State University	017	25	20	80%	5	20%	12	10	83%	2	17%
San Marcos University	019	11	9	82%	2	18%	11	9	82%	2	18%
UC, Berkeley	050	20	17	85%	3	15%	17	15	88%	2	12%
UC, Los Angeles	052	26	25	96%	1	4%	24	23	96%	1	4%
University of Southern California, Los Angeles	145	192	130	68%	62	32%	139	93	67%	46	33%

**LCSW Law and Ethics TOTAL: 953 701 74% 252 26% 692 531 77% 161 23%**

**LICENSE TYPE: LEP**

**EXAM: LEP Standard Written Exam**

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka CSPP)	112	2	1	50%	1	50%	2	1	50%	1	50%
Azusa Pacific University, Azusa	103	4	4	100%	0	0%	1	1	100%	0	0%
California State University, Chico	003	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Dominguez Hills	004	1	0	0%	1	100%	0	0		0	
California State University, Hayward	007	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Los Angeles	009	3	1	33%	2	67%	3	1	33%	2	67%
California State University, Northridge	010	2	2	100%	0	0%	2	2	100%	0	0%
California State University, San Bernardino	012	1	0	0%	1	100%	1	0	0%	1	100%
Chapman University, Orange	113	7	2	29%	5	71%	4	2	50%	2	50%
Humboldt State University, Arcata	014	2	1	50%	1	50%	1	1	100%	0	0%
Loyola Marymount University, Los Angeles	126	2	0	0%	2	100%	0	0		0	
National University	129	5	1	20%	4	80%	1	1	100%	0	0%
Out-of-State	300	6	5	83%	1	17%	5	4	80%	1	20%
Pepperdine University, Malibu	135	1	0	0%	1	100%	0	0		0	
Phillips Graduate Institute	106	1	0	0%	1	100%	0	0		0	
San Francisco State University	016	4	3	75%	1	25%	2	2	100%	0	0%
St. Mary's College of CA, Moraga	136	3	2	67%	1	33%	3	2	67%	1	33%
UC, Riverside	053	1	1	100%	0	0%	0	0		0	

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
UC, Santa Barbara	056	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	1	0	0%	1	100%	1	0	0%	1	100%

**LEP Standard Written Exam TOTAL: 49 26 53% 23 47% 29 20 69% 9 31%**

**LICENSE TYPE: LMFT**

**EXAM: LMFT Clinical Exam**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka US International)	139	28	20	71%	8	29%	20	15	75%	5	25%
American Behavioral Studies Institute	235	2	1	50%	1	50%	1	1	100%	0	0%
Antioch University, Los Angeles	241	52	24	46%	28	54%	33	20	61%	13	39%
Antioch University, Santa Barbara	243	18	10	56%	8	44%	11	8	73%	3	27%
Argosy University (aka American School of Prof. Psych.)	204	56	22	39%	34	61%	27	11	41%	16	59%
Azusa Pacific University, Azusa	103	19	12	63%	7	37%	14	9	64%	5	36%
Bethany College	157	2	1	50%	1	50%	2	1	50%	1	50%
Bethel Theological Seminary	152	5	4	80%	1	20%	3	3	100%	0	0%
Brandman University	253	42	28	67%	14	33%	27	22	81%	5	19%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	2	2	100%	0	0%	2	2	100%	0	0%
California Baptist University, Riverside	105	37	19	51%	18	49%	24	14	58%	10	42%
California	203	1	0	0%	1	100%	0	0		0	

Feb 4, 2019

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Graduate Institute, Los Angeles											
California Institute of Integral Studies, S.F.	107	36	30	83%	6	17%	31	27	87%	4	13%
California Lutheran University, Thousand Oaks	108	8	4	50%	4	50%	3	2	67%	1	33%
California Southern University	246	7	4	57%	3	43%	4	4	100%	0	0%
California State Polytechnic University, Pomona	019	9	8	89%	1	11%	7	7	100%	0	0%
California State University, Bakersfield	002	4	1	25%	3	75%	1	1	100%	0	0%
California State University, Chico	003	8	4	50%	4	50%	6	4	67%	2	33%
California State University, Dominguez Hills	004	19	9	47%	10	53%	14	6	43%	8	57%
California State University, Fresno	005	24	14	58%	10	42%	17	10	59%	7	41%
California State University, Fullerton	006	21	15	71%	6	29%	15	13	87%	2	13%
California State University, Hayward	007	8	7	88%	1	12%	6	6	100%	0	0%
California State University, Long Beach	008	9	9	100%	0	0%	8	8	100%	0	0%
California State University, Los Angeles	009	13	8	62%	5	38%	6	4	67%	2	33%
California State University, Northridge	010	31	18	58%	13	42%	24	15	62%	9	38%
California State University, Sacramento	011	14	11	79%	3	21%	11	8	73%	3	27%
California State University, San Bernardino	012	2	2	100%	0	0%	2	2	100%	0	0%



**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
California State University, Stanislaus	013	2	2	100%	0	0%	2	2	100%	0	0%
Chapman University, Orange	113	24	14	58%	10	42%	7	6	86%	1	14%
Dominican University of California	117	8	7	88%	1	12%	7	6	86%	1	14%
Fresno Pacific Biblical Seminary, Fresno	127	3	3	100%	0	0%	3	3	100%	0	0%
Fuller Theological Seminary, Pasadena	119	5	4	80%	1	20%	4	4	100%	0	0%
Golden Gate University	151	3	1	33%	2	67%	1	0	0%	1	100%
HIS University	247	1	0	0%	1	100%	0	0		0	
Holy Names University, Oakland	122	6	3	50%	3	50%	2	1	50%	1	50%
Hope International University	131	14	6	43%	8	57%	9	4	44%	5	56%
Human Relations Center, Inc., Santa Clara	208	1	1	100%	0	0%	1	1	100%	0	0%
John F. Kennedy University, Orinda	124	50	31	62%	19	38%	35	24	69%	11	31%
Loma Linda University, Orinda	125	6	6	100%	0	0%	4	4	100%	0	0%
Loyola Marymount University, Los Angeles	126	11	8	73%	3	27%	9	8	89%	1	11%
Meridian University	231	2	1	50%	1	50%	2	1	50%	1	50%
Mount St. Mary's College, Los Angeles	128	8	6	75%	2	25%	6	5	83%	1	17%
National University	129	74	29	39%	45	61%	45	21	47%	24	53%
New College of California, San Francisco	130	2	1	50%	1	50%	2	1	50%	1	50%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Notre Dame de Namur University	116	13	9	69%	4	31%	9	5	56%	4	44%
OUT-OF-COUNTRY	400	4	3	75%	1	25%	2	2	100%	0	0%
Out-of-State	300	35	22	63%	13	37%	30	19	63%	11	37%
Pacific Oaks College, Pasadena	133	28	14	50%	14	50%	17	11	65%	6	35%
Pacifica Graduate Institute, Carpinteria	154	22	14	64%	8	36%	18	13	72%	5	28%
Palo Alto University	258	6	4	67%	2	33%	5	4	80%	1	20%
Pepperdine University, Malibu	135	54	37	69%	17	31%	35	27	77%	8	23%
Phillips Graduate Institute	106	35	17	49%	18	51%	21	12	57%	9	43%
Ryokan College, Los Angeles	216	2	0	0%	2	100%	2	0	0%	2	100%
San Diego State University	015	12	9	75%	3	25%	7	6	86%	1	14%
San Diego University for Integrative Studies	244	1	1	100%	0	0%	1	1	100%	0	0%
San Francisco State University	016	14	8	57%	6	43%	9	6	67%	3	33%
San Jose State University	017	3	2	67%	1	33%	3	2	67%	1	33%
Santa Clara University	144	13	9	69%	4	31%	9	7	78%	2	22%
Simpson University	254	6	5	83%	1	17%	6	5	83%	1	17%
Sofia University, San Jose	155	9	8	89%	1	11%	6	6	100%	0	0%
Sonoma State University	018	3	3	100%	0	0%	3	3	100%	0	0%
Southern California Seminary (aka Southern CA Bible College and Seminary)	237	5	2	40%	3	60%	2	1	50%	1	50%
St. Mary's College of CA, Moraga	136	11	9	82%	2	18%	8	7	88%	1	12%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
The Chicago School of Professional Psychology at Los Angeles	251	20	13	65%	7	35%	13	11	85%	2	15%
Trinity College of Graduate Studies, Orange	201	2	0	0%	2	100%	1	0	0%	1	100%
University for Humanistic Studies, San Diego	218	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	12	9	75%	3	25%	8	7	88%	1	12%
University of Phoenix, Sacramento	238	7	1	14%	6	86%	2	1	50%	1	50%
University of Phoenix, San Diego	236	89	43	48%	46	52%	50	27	54%	23	46%
University of San Diego, San Diego	142	9	8	89%	1	11%	8	8	100%	0	0%
University of San Francisco, San Francisco	143	27	12	44%	15	56%	19	11	58%	8	42%
University of Santa Monica	240	1	1	100%	0	0%	1	1	100%	0	0%
University of Southern California, Los Angeles	145	13	13	100%	0	0%	12	12	100%	0	0%
University of the West	255	2	2	100%	0	0%	2	2	100%	0	0%
Vanguard University of Southern California	156	11	8	73%	3	27%	8	8	100%	0	0%
Webster University	248	1	1	100%	0	0%	1	1	100%	0	0%
Western Seminary (Western Conservative Baptist Seminary)	232	6	3	50%	3	50%	4	3	75%	1	25%
World University of America	226	1	0	0%	1	100%	0	0		0	
Wright Institute, Berkeley	150	7	7	100%	0	0%	6	6	100%	0	0%

**LMFT Clinical Exam TOTAL: 1,182 708 60% 474 40% 787 550 70% 237 30%**

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

**EXAM: LMFT Law and Ethics**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka US International)	139	33	31	94%	2	6%	22	21	95%	1	5%
American Behavioral Studies Institute	235	2	1	50%	1	50%	1	1	100%	0	0%
Antioch University, Los Angeles	241	53	45	85%	8	15%	41	38	93%	3	7%
Antioch University, Santa Barbara	243	17	15	88%	2	12%	11	11	100%	0	0%
Argosy University (aka American School of Prof. Psych.)	204	54	31	57%	23	43%	20	14	70%	6	30%
Azusa Pacific University, Azusa	103	27	26	96%	1	4%	23	23	100%	0	0%
Bethel Theological Seminary	152	2	1	50%	1	50%	2	1	50%	1	50%
Brandman University	253	40	31	78%	9	22%	24	19	79%	5	21%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	7	7	100%	0	0%	6	6	100%	0	0%
California Baptist University, Riverside	105	36	28	78%	8	22%	22	16	73%	6	27%
California Graduate Institute, Los Angeles	203	1	0	0%	1	100%	0	0		0	
California Institute of Integral Studies, S.F.	107	44	38	86%	6	14%	35	31	89%	4	11%
California Lutheran University, Thousand Oaks	108	7	6	86%	1	14%	6	6	100%	0	0%
California Southern University	246	6	4	67%	2	33%	4	3	75%	1	25%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
California State Polytechnic University, Pomona	019	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Bakersfield	002	2	1	50%	1	50%	2	1	50%	1	50%
California State University, Dominguez Hills	004	10	7	70%	3	30%	7	6	86%	1	14%
California State University, Fresno	005	15	13	87%	2	13%	11	11	100%	0	0%
California State University, Fullerton	006	11	11	100%	0	0%	9	9	100%	0	0%
California State University, Hayward	007	19	17	89%	2	11%	16	14	88%	2	12%
California State University, Long Beach	008	12	11	92%	1	8%	11	10	91%	1	9%
California State University, Los Angeles	009	9	8	89%	1	11%	5	5	100%	0	0%
California State University, Northridge	010	16	11	69%	5	31%	10	8	80%	2	20%
California State University, Sacramento	011	7	5	71%	2	29%	2	2	100%	0	0%
California State University, San Bernardino	012	5	5	100%	0	0%	4	4	100%	0	0%
California State University, Stanislaus	013	5	5	100%	0	0%	3	3	100%	0	0%
Changed to school code 241	100	1	1	100%	0	0%	1	1	100%	0	0%
Chapman University, Orange	113	5	5	100%	0	0%	3	3	100%	0	0%
Dominican University of California	117	2	2	100%	0	0%	1	1	100%	0	0%
Eisner Institute for Professional Studies	250	1	1	100%	0	0%	1	1	100%	0	0%
Fresno Pacific Biblical Seminary,	127	1	0	0%	1	100%	0	0		0	

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Fresno											
Fresno Pacific University	153	1	1	100%	0	0%	1	1	100%	0	0%
Fuller Theological Seminary, Pasadena	119	6	4	67%	2	33%	4	3	75%	1	25%
Golden Gate University	151	4	4	100%	0	0%	3	3	100%	0	0%
HIS University	247	1	0	0%	1	100%	0	0		0	
Holy Names University, Oakland	122	7	5	71%	2	29%	7	5	71%	2	29%
Hope International University	131	13	10	77%	3	23%	9	7	78%	2	22%
Humboldt State University, Arcata	014	4	4	100%	0	0%	3	3	100%	0	0%
John F. Kennedy University, Orinda	124	45	41	91%	4	9%	36	33	92%	3	8%
Loma Linda University, Orinda	125	7	6	86%	1	14%	7	6	86%	1	14%
Loyola Marymount University, Los Angeles	126	2	2	100%	0	0%	1	1	100%	0	0%
Meridian University	231	1	1	100%	0	0%	1	1	100%	0	0%
Mount St. Mary's College, Los Angeles	128	19	15	79%	4	21%	13	12	92%	1	8%
National University	129	57	44	77%	13	23%	24	19	79%	5	21%
New College of California, San Francisco	130	4	2	50%	2	50%	0	0		0	
Northcentral University	256	4	4	100%	0	0%	2	2	100%	0	0%
Notre Dame de Namur University	116	20	15	75%	5	25%	11	9	82%	2	18%
OUT-OF-COUNTRY	400	8	5	62%	3	38%	4	3	75%	1	25%
Out-of-State	300	29	20	69%	9	31%	19	12	63%	7	37%
Pacific Oaks	133	28	18	64%	10	36%	13	10	77%	3	23%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
College, Pasadena											
Pacifica Graduate Institute, Carpinteria	154	16	13	81%	3	19%	13	11	85%	2	15%
Palo Alto University	258	8	5	62%	3	38%	6	3	50%	3	50%
Pepperdine University, Malibu	135	51	45	88%	6	12%	40	35	88%	5	12%
Phillips Graduate Institute	106	43	35	81%	8	19%	23	21	91%	2	9%
Remington College (Aka-Edu. Amercia Univ.)	239	1	1	100%	0	0%	0	0		0	
San Diego State University	015	9	9	100%	0	0%	6	6	100%	0	0%
San Francisco State University	016	2	2	100%	0	0%	2	2	100%	0	0%
San Jose State University	017	4	4	100%	0	0%	3	3	100%	0	0%
Santa Clara University	144	22	21	95%	1	5%	18	17	94%	1	6%
Saybrook University	137	2	2	100%	0	0%	2	2	100%	0	0%
Simpson University	254	2	2	100%	0	0%	1	1	100%	0	0%
Sofia University, San Jose	155	5	5	100%	0	0%	3	3	100%	0	0%
Sonoma State University	018	2	2	100%	0	0%	2	2	100%	0	0%
Southern California Seminary (aka Southern CA Bible College and Seminary)	237	3	3	100%	0	0%	2	2	100%	0	0%
St. Mary's College of CA, Moraga	136	9	7	78%	2	22%	5	4	80%	1	20%
The Chicago School of Professional Psychology at Los Angeles	251	35	29	83%	6	17%	23	22	96%	1	4%
TOURO UNIVERSITY	262	6	3	50%	3	50%	4	2	50%	2	50%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Trinity College of Graduate Studies, Orange	201	1	1	100%	0	0%	1	1	100%	0	0%
UC, San Francisco	055	1	0	0%	1	100%	1	0	0%	1	100%
University for Humanistic Studies, San Diego	218	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	7	5	71%	2	29%	4	4	100%	0	0%
University of Phoenix, Sacramento	238	5	4	80%	1	20%	2	1	50%	1	50%
University of Phoenix, San Diego	236	119	91	76%	28	24%	50	36	72%	14	28%
University of San Diego, San Diego	142	5	5	100%	0	0%	5	5	100%	0	0%
University of San Francisco, San Francisco	143	25	25	100%	0	0%	20	20	100%	0	0%
University of Southern California, Los Angeles	145	7	6	86%	1	14%	7	6	86%	1	14%
Vanguard University of Southern California	156	6	6	100%	0	0%	4	4	100%	0	0%
Webster University	248	1	1	100%	0	0%	0	0		0	
Western Seminary (Western Conservative Baptist Seminary)	232	12	12	100%	0	0%	12	12	100%	0	0%
Wright Institute, Berkeley	150	15	15	100%	0	0%	13	13	100%	0	0%

**LMFT Law and Ethics TOTAL: 1,136 929 82% 207 18% 735 639 87% 96 13%**

**LICENSE TYPE: LPCC**

**EXAM: LPCC Law and Ethics**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant	112	5	4	80%	1	20%	2	2	100%	0	0%

Feb 4, 2019



**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
International University (aka CSPP)											
Alliant International University (aka US International)	139	2	0	0%	2	100%	2	0	0%	2	100%
Antioch University, San Francisco	242	1	0	0%	1	100%	0	0		0	
Argosy University (aka American School of Prof. Psych.)	204	8	4	50%	4	50%	6	2	33%	4	67%
Azusa Pacific University, Azusa	103	8	2	25%	6	75%	6	1	17%	5	83%
Brandman University	253	8	6	75%	2	25%	5	4	80%	1	20%
California Baptist University, Riverside	105	7	7	100%	0	0%	5	5	100%	0	0%
California Institute of Integral Studies, S.F.	107	3	2	67%	1	33%	3	2	67%	1	33%
California Southern University	246	2	2	100%	0	0%	2	2	100%	0	0%
California State University, Fresno	005	1	0	0%	1	100%	0	0		0	
California State University, Fullerton	006	6	6	100%	0	0%	6	6	100%	0	0%
California State University, Hayward	007	2	1	50%	1	50%	1	0	0%	1	100%
California State University, Los Angeles	009	1	1	100%	0	0%	0	0		0	
California State University, Sacramento	011	3	2	67%	1	33%	2	2	100%	0	0%
California State University, San Bernardino	012	7	2	29%	5	71%	1	0	0%	1	100%
California State University,	013	4	1	25%	3	75%	2	1	50%	1	50%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Stanislaus											
Fielding Institute, Santa Barbara	118	1	1	100%	0	0%	0	0		0	
GRAND CANYON UNIVERSITY	264	3	1	33%	2	67%	1	0	0%	1	100%
Holy Names University, Oakland	122	1	1	100%	0	0%	0	0		0	
Hope International University	131	1	1	100%	0	0%	1	1	100%	0	0%
John F. Kennedy University, Orinda	124	7	6	86%	1	14%	6	5	83%	1	17%
Loma Linda University, Orinda	125	2	2	100%	0	0%	1	1	100%	0	0%
Loyola Marymount University, Los Angeles	126	7	3	43%	4	57%	5	1	20%	4	80%
National University	129	5	2	40%	3	60%	4	1	25%	3	75%
Notre Dame de Namur University	116	7	3	43%	4	57%	6	3	50%	3	50%
OUT-OF-COUNTRY	400	2	1	50%	1	50%	1	0	0%	1	100%
Out-of-State	300	76	57	75%	19	25%	51	40	78%	11	22%
Pepperdine University, Malibu	135	11	9	82%	2	18%	10	8	80%	2	20%
San Diego State University	015	4	3	75%	1	25%	4	3	75%	1	25%
San Jose State University	017	6	1	17%	5	83%	4	1	25%	3	75%
Santa Clara University	144	4	4	100%	0	0%	4	4	100%	0	0%
Saybrook University	137	1	1	100%	0	0%	1	1	100%	0	0%
Sofia University, San Jose	155	3	3	100%	0	0%	2	2	100%	0	0%
Sonoma State University	018	2	1	50%	1	50%	1	0	0%	1	100%
St. Mary's College of CA,	136	2	2	100%	0	0%	1	1	100%	0	0%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Moraga											
The Chicago School of Professional Psychology at Los Angeles	251	3	3	100%	0	0%	3	3	100%	0	0%
UC, San Diego	054	1	1	100%	0	0%	1	1	100%	0	0%
UC, San Francisco	055	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	4	3	75%	1	25%	1	1	100%	0	0%
University of Phoenix, San Diego	236	1	1	100%	0	0%	1	1	100%	0	0%
University of Redlands	259	6	4	67%	2	33%	2	2	100%	0	0%
University of San Diego, San Diego	142	4	2	50%	2	50%	4	2	50%	2	50%
University of San Francisco, San Francisco	143	7	3	43%	4	57%	7	3	43%	4	57%
Vanguard University of Southern California	156	1	1	100%	0	0%	1	1	100%	0	0%
WALDEN UNIVERSITY	263	1	1	100%	0	0%	0	0		0	
Western Seminary (Western Conservative Baptist Seminary)	232	8	8	100%	0	0%	8	8	100%	0	0%

**LPCC Law and Ethics TOTAL: 250 170 68% 80 32% 175 122 70% 53 30%**

**EXAM: NCMHCE Exam**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Alliant International University (aka CSPP)	112	4	2	50%	2	50%	3	1	33%	2	67%
Argosy University (aka American School of Prof. Psych.	204	3	1	33%	2	67%	1	0	0%	1	100%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Azusa Pacific University, Azusa	103	5	1	20%	4	80%	4	1	25%	3	75%
Brandman University	253	2	1	50%	1	50%	2	1	50%	1	50%
Calif. Polytechnic State University, San Luis Obispo - Cal Poly	001	1	0	0%	1	100%	1	0	0%	1	100%
California Southern University	246	1	0	0%	1	100%	1	0	0%	1	100%
California State University, Fresno	005	1	1	100%	0	0%	0	0		0	
California State University, Hayward	007	1	0	0%	1	100%	1	0	0%	1	100%
California State University, Los Angeles	009	1	1	100%	0	0%	0	0		0	
California State University, Northridge	010	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Sacramento	011	1	1	100%	0	0%	1	1	100%	0	0%
California State University, Stanislaus	013	1	0	0%	1	100%	1	0	0%	1	100%
Loma Linda University, Orinda	125	2	1	50%	1	50%	2	1	50%	1	50%
Loyola Marymount University, Los Angeles	126	1	0	0%	1	100%	0	0		0	
Mount St. Mary's College, Los Angeles	128	1	1	100%	0	0%	0	0		0	
Notre Dame de Namur University	116	1	1	100%	0	0%	1	1	100%	0	0%
Out-of-State	300	30	18	60%	12	40%	26	15	58%	11	42%
Pacific Graduate School of Psychology, Palo Alto	149	1	0	0%	1	100%	1	0	0%	1	100%
Pepperdine University,	135	1	1	100%	0	0%	1	1	100%	0	0%

**Board of Behavioral Sciences**  
**EXAM RESULTS BY SCHOOL**  
**EXAM DATES: Oct 1, 2018 THROUGH Dec 31, 2018**

SCHOOL		APPLICANTS					FIRST TIMER				
SCHOOL NAME	CODE	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT	TAKING EXAM	PASSED	PASSED PERCENT	FAILED	FAILED PERCENT
Malibu											
San Diego State University	015	2	2	100%	0	0%	1	1	100%	0	0%
San Jose State University	017	3	1	33%	2	67%	1	1	100%	0	0%
Santa Clara University	144	1	1	100%	0	0%	1	1	100%	0	0%
Sonoma State University	018	1	1	100%	0	0%	1	1	100%	0	0%
The Chicago School of Professional Psychology at Los Angeles	251	1	1	100%	0	0%	1	1	100%	0	0%
UC, San Diego	054	1	1	100%	0	0%	1	1	100%	0	0%
University of La Verne, La Verne	140	2	0	0%	2	100%	1	0	0%	1	100%
University of Redlands	259	1	1	100%	0	0%	1	1	100%	0	0%
University of San Diego, San Diego	142	5	5	100%	0	0%	4	4	100%	0	0%
University of San Francisco, San Francisco	143	2	2	100%	0	0%	2	2	100%	0	0%
Western Seminary (Western Conservative Baptist Seminary)	232	1	0	0%	1	100%	1	0	0%	1	100%
<b>NCMHCE Exam TOTAL:</b>		<b>79</b>	<b>46</b>	<b>58%</b>	<b>33</b>	<b>42%</b>	<b>62</b>	<b>36</b>	<b>58%</b>	<b>26</b>	<b>42%</b>

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Board of Behavioral Sciences

# Memo

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members

**Date:** February 15, 2019

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject:** Personnel Update

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## **New Employees**

Office Technician (OT) Administration - Martin Gamez joined the Board to fill this OT position on December 14, 2018. This position functions as the main receptionist for the Board. Mr. Gamez previously worked in private industry and has over three (3) years of experience in customer service and sales.

Management Services Technician (MST) / Licensing – Lisa Chong joined the Board on January 2, 2019 to fill this MST position. This position will perform the duties related to the Licensed Marriage and Family Therapist (LMFT) as a Licensing Evaluator. Ms. Chong previously worked at the Employment Development Department and the Department of Industrial Relations.

Associate Governmental Program Analyst / Enforcement – Sam Hall was promoted to an Associate Governmental Program Analyst position in the Discipline and Probation Unit to perform the duties of a Discipline Analyst. Mr. Hall was previously an Enforcement Analyst in the Criminal Conviction Unit conducting subsequent arrest investigations.

## **Departures**

Mary Hanifen retired from state service effective December 31, 2018. Ms. Hanifen was an Enforcement Analyst in the Consumer Complaint Unit.

## **Vacancies**

The Board currently has four vacancies. Recruitment efforts to fill these vacancies are as follows:

Staff Services Manager I / Examination & Cashiering Unit – This manager oversees, monitors, assigns, and maintains the daily oversight of the Examination & Cashiering Unit. The Board will begin the recruitment process for this vacancy in coming months.

Associate Governmental Program Analyst (Part-time 0.5) / Enforcement – This vacancy is assigned to the Discipline & Probation Unit in the Enforcement Program to function as a Probation Analyst. The hiring manager will begin reviewing applications and interview selected candidates after the Board moves into its new suite.

Associate Governmental Program Analyst / Enforcement – This vacancy is assigned to the Consumer Complaint Unit in the Enforcement Program to function as an Enforcement Analyst. The Board will begin the recruitment process in the coming months.

Staff Services Analyst / Enforcement Analyst – This position is assigned to the Criminal Conviction Unit and conducts subsequent arrest investigations. The Board will begin the recruitment process in the coming months.





Board of Behavioral Sciences

# Memo

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**To:** Board Members

**Date:** February 15, 2019

**From:** Kim Madsen  
Executive Officer

**Telephone:** (916) 574-7841

**Subject:** Strategic Plan Update

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Attached for your review is the Strategic Plan update.

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**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Licensing</b>	<b>DUE DATE</b>	<b>STATUS</b>
<i><b>Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.</b></i>		
<b>1.1</b> Identify and implement enhanced communication during the application process to respond to stakeholder concerns regarding communication between applicants and the Board.	<b>July 2021</b>	
<b>1.2</b> Improve and expand the Board's virtual online BreEZe functionality to provide applicants with the precise status of their applications and license.	<b>July 2020</b>	
<b>1.3</b> Research and explore a comprehensive online application process to improve efficiency.	<b>January 2021</b>	<b>March 2018</b> – Request submitted to revise BreEZe to allow L/E exam and Initial Licensure Applications submitted online. <b>March 2019</b> Online submission for Law and Ethics exam and request for certification of licensure available.
<b>1.4</b> Evaluate and revise current laws and regulations relating to licensure portability to increase consumer access to mental health care.	<b>January 2021</b>	<b>August 2018</b> – License Portability Committee recommendations and draft regulations will be considered during the August 2018 Policy and Advocacy meeting. <b>September 2018</b> -Board members approve recommendations <b>January 2019</b> – Author for bill obtained

**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Examinations</b> <i>Administer fair, valid, comprehensive, and relevant licensing examinations.</i>	<b>DUE DATE</b>	<b>STATUS</b>
<b>2.1</b> Improve the efficiency and reduce processing times to streamline the online exam application.	<b>January 2021</b>	<b>February 2019</b> – Submission of Law and Ethics application via online available March 2019
<b>2.2</b> Explore methods to improve the candidate’s exam experience to address concerns relating to the quality and customer service.	<b>July 2019</b>	<b>August 2018</b> Board management initiates process to procure a vendor to administer Board developed examinations. <b>February 2019</b> Contract submitted to DCA
<b>2.3</b> Improve the Board’s examination study materials to increase access to exam preparation.	<b>July 2019</b>	<b>October 2018</b> Board management met with OPES to discuss options to assist candidates in examination preparation.
<b>2.4</b> Evaluate the Association of Marriage and Family Therapy Regulatory Board’s (AMFTRB) national examination to determine if appropriate for use in California.	<b>July 2020</b>	<b>September 2018</b> Executive Officer attended presentation regarding national exam at the AMFTRB annual meeting. <b>October 2018</b> OPES indicates evaluation will occur upon completion of Board’s OA for LMFTs.

**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Enforcement</b> <i>Protect the health and safety of consumers through the enforcement of laws.</i>	<b>DUE DATE</b>	<b>STATUS</b>
<b>3.1</b> Explore the feasibility of additional staff resources to address the increase in number of licensees placed on probation.	<b>July 2020</b>	<b>June 2018</b> – Restructured the Enforcement Program to establish a manager position to provide oversight of the Probation and Discipline Unit. <b>July 2018</b> – Request for 1 full time and 1 half time position to monitor probationers was approved. Initiated recruitment for manager. Initiated recruitment for probation monitor positions. <b>August 2018</b> – Manager hired.
<b>3.2</b> Educate registrant and licensees about general legal requirements and consequences to practitioners who fail to adhere to these legal requirements.	<b>July 2019</b>	<b>April 2018</b> - CALPCC Annual Meeting Unprofessional Conduct Presentation
<b>3.3</b> Educate the Deputy Attorney Generals and Administrative Law Judges regarding the disease of addiction and substance abuse to increase their awareness during the discipline process.	<b>July 2021</b>	
<b>3.4</b> Establish uniform standards and templates for reports and evaluations submitted to the Board related to disciplinary matters.	<b>July 2020</b>	<b>April 2018, June 2018, October 2018</b> – Board staff attends Substance Abuse Coordination Committee to discussion possible revisions to Uniform Standard #4.

**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Legislation and Regulation</b> <i>Ensure that statutes, regulations, policies, and procedures strengthen and support the Board's mandate and mission.</i>	<b>DUE DATE</b>	<b>STATUS</b>
<b>4.1</b> Pursue legislation to implement the recommendations of the License Portability Committee to improve license portability.	<b>January 2020</b>	<b>August 2018</b> – Recommendations presented at August 24, 2018 Policy and Advocacy Committee meeting. <b>September 2018</b> Board approves language – directs staff to initiate legislation process. <b>January 2019</b> Author for bill obtained
<b>4.2</b> Reorganize the statutes and regulations specific to each Board license type to improve understanding of application statutes and regulations.	<b>January 2021</b>	
<b>4.3</b> Continue to review statutory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.	<b>January 2021</b>	<b>August 2018</b> - Final meeting of the Exempt Setting Committee scheduled for September 12, 2018. <b>October 2018</b> P&A members recommend approving proposed setting definitions to full board. <b>February 2019</b> P&A Committee refer definitions back to Exempt Committee for additional revisions.
<b>4.4</b> Explore the feasibility of improving the law and ethics renewal requirements to inform licensees about updates in relevant laws.	<b>July 2021</b>	<b>July 2018</b> – Board's Continuing Education Analyst will attend all major outreach events to educate licensees regarding continuing education requirements.
<b>4.5</b> Review and update existing telehealth regulations to improve consumer protection and access to services.	<b>January 2020</b>	<b>May 2018</b> Board established a Telehealth Committee to begin work after January 1, 2019.

**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Organizational Effectiveness</b> <i>Build an excellent organization through proper Board governance, effective leadership, and responsible management.</i>	<b>DUE DATE</b>	<b>STATUS</b>
<b>5.1</b> Implement a strategic succession plan of Board staff to ensure continued success of the Board's operations.	<b>January 2020</b>	<b>October 2018</b> – Probation unit updates procedure manuals.
<b>5.2</b> Support DCA efforts to contract with independent organizations to perform occupational analyses and salary surveys of management-level positions equivalent to the Executive Officer and Bureau Chief classifications to enhance the Board's ability to attract and retain competitive applicants.	<b>July 2020</b>	<b>Spring 2018</b> – Board management contacts DCA Executive Management offering assistance with the EO survey and process. <b>July 2018</b> DCA reports requests for bid to conduct EO survey near completion. <b>October 2018</b> DCA reports some EO's participated in phone interviews with contractor. Contractor will develop survey for all EO's to complete. ETA for report early 2019.
<b>5.3</b> Explore the feasibility of hiring in-house counsel to ensure consistency in the application of law.	<b>July 2021</b>	<b>Winter and Spring 2018</b> – Board management initiates review of existing laws that allow Board's to hire in-house counsel. Board management engaged in discussions to seek similar hiring authority. <b>August 2018</b> - Proposed language to provide the Board with the hiring authority is removed from bill.
<b>5.4</b> Explore the feasibility of hiring a media and internet technology specialist to increase consistency in messaging to stakeholders.	<b>July 2021</b>	
<b>5.5</b> Improve customer service with stakeholders to expand (or support) effective communication and accessibility to the Board.	<b>July 2019</b>	<b>Spring 2018</b> – Implemented revised phone system.

**CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE**  
February 2019

<b>Outreach and Education</b> <i>Engage stakeholders through continuous communication about the practice and regulation of the professions, and mental health.</i>	<b>DUE DATE</b>	<b>STATUS</b>
<b>6.1</b> Explore modalities of communication to expand and increase outreach.	<b>January 2020</b>	<b>January and February 2019</b> Meeting with assigned PIO officer to discuss strategies to enhance social media presence.
<b>6.2</b> Advocate to increase Board presence at national professional association meetings to enhance awareness of national trends and best practices.	<b>July 2021</b>	<b>May 2018</b> – Received approval for Board EO to attend ASWB Spring Education Conference in Halifax, Nova Scotia to present draft license portability plan. <b>July 2018</b> - Received approval for Board EO to attend NBCC, AMFTRB, and ASWB national meetings in Fall 2018.
<b>6.3</b> Develop an outreach program to educate the public about the benefits of mental health to reduce barriers and destigmatize mental health care.	<b>July 2020</b>	
<b>6.4</b> Explore opportunities to coordinate with stakeholders to increase diversity of mental health practitioners to better serve California’s diverse population.	<b>July 2021</b>	<b>October 2018</b> - Board staff participates in meeting with various stakeholders to discuss implementation of AB 2105.
<b>6.5</b> Improve outreach activities to educational institutions, students, and applicants to educate incoming registrants of application requirements for licensure.	<b>January 2021</b>	<b>August 2018</b> – Board management initiates discussions with SOLID to discuss developing video tutorials for Board website.





Board of Behavioral Sciences

# Memo

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Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members **Date:** February 19, 2019  
**From:** Steve Sodergren **Telephone:** (916) 574-7847  
Assistance Executive Officer  
**Subject: Fee Audit**

In August 2018, the Board contracted with CPS HR Consulting (CPS) to provide performance auditing and consulting services to review of the Board's fee structure and staff workload to determine if fee levels are appropriate for the recovery of the actual cost of conducting its programs. In February 2019 CPS HR submitted the draft report. To complete the draft report CPS HR performed the following tasks:

- Assessed and correlated the workload for approximately 60 Board employees to determine an hourly or unit cost to support licensing, renewal, and enforcement activities.
- Analyzed all fees and other revenues collected by the Board to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Based on the financial analysis, projected fees/revenues and related costs for the next three to five fiscal years.
- Determined a cost basis to assess other services provided by the Board when a separate fee is not provided, if any.

## **Report Summary**

Based upon their review, CPS HR found the following:

- The Board has grown steadily since FY 2014/15. In FY 2014/15, the Board was authorized 48.2 permanent positions and 1.8 blanket positions for a total of 50 positions. As of July 1, 2018, the Board has 58.2 authorized positions and 1.8 blanket positions for a total of 60 positions, a 20% increase.
- In October 2013, the Board implemented DCA's BreEZe online licensing and enforcement system which offers one-stop shopping for BBS licensees, applicants and consumers. The Board incurred significant costs to implement BreEZe.
- Revenue associated with the 25 fees under examination has increased 39.3% from FY 14-15 through FY 2017-2018.

- On average, BBS Operating Expenses & Equipment costs constitute 58.1% of total expenses and Personnel Services constitute 41.9%.
- Overall revenue has not kept up with expenditures since FY 16-17.
- Beginning in FY 2020-21 and moving forward, revenue and expense projections indicate that BBS will have insufficient revenue to cover operational costs and maintain an acceptable 3 to 6-month fund reserve.
- Fees associated with the LMFT, LCSW and LEP licenses have not increased in at least 20 years. The LPCC program was established in FY 2011-12 and the fees have not increased since.

As a result of the above findings, CPS recommends the following:

- After consultation with the DCA Budget Office and its registrant and licensee client populations, the Board should charge for select scheduled and unscheduled services based on a fully absorbed cost rate of \$120 per hour. Services should be charged, and fees set, to the extent possible, based on the actual time the Board uses to provide the service.
- BBS management should develop, approve and implement or introduce legislation to revise the fee schedule as soon as possible, and inform current and prospective licensees of the changes.
- In lieu of a lengthy legislative process to change future license fees, CPS HR recommends that the Board, in obtaining legislative approval for fee increases also set a statutory maximum higher than the fees currently needed to restore the fund to a satisfactory reserve. By enabling this administrative strategy now, the Board would have flexibility in setting fees in the future to ensure adequate fund reserves as revenues decline or expenses increase.

### **Recommendation Summary**

An overall increase in revenue is required to close the revenue gap and build a satisfactory reserve by meeting or exceeding total expenditures. This assumes that, except for the selected fee increases, the Board retains the current initial and renewal license fee structure, maintains costs within its control, and does not incur significant increases in costs beyond its control, such as Departmental, inter-service agency and pro rata costs.

Board staff will be reviewing the draft and will collaborate with CPS HR to finalize the report. The final report, along with an action plan to restructure fees, will be presented at the next board meeting.

### **Recommendation**

Conduct an open discussion about the initial report findings and recommendations.

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
www.bbs.ca.gov

**To:** Board Members **Date:** February 13, 2019  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Updates to Informational Brochure Regarding Therapist Sexual Behavior and Sexual Contact**

AB 2968 (Levine, Chapter 778, Statutes of 2018) was sponsored by the Board of Psychology and was signed into law in late 2018. Highlights of AB 2968 are as follows:

- Requires the Psychology Board, Board of Behavioral Sciences, Medical Board, and Osteopathic Medical Board to work together to update the content of the “Professional Therapy Never Includes Sex” brochure.
- Includes LEPs in this list of professionals who must provide the brochure to clients who have indicated sexual behavior or contact with a previous therapist.
- Includes “sexual behavior” in the provisions of the brochure. Defines “sexual behavior” as inappropriate contact or communication of a sexual nature.

The Board of Psychology has drafted updates to the brochure and has provided the proposed language (**Attachment A**) to the other affected boards for review and feedback. The draft shown includes feedback given by the Policy and Advocacy Committee at its February 8, 2019 meeting, as well as feedback given by the Medical Board of California.

### **Recommendation**

Conduct an open discussion about the amended brochure language proposed in **Attachment A**. Direct staff to relay any additional requested changes to the Board of Psychology.

### **Attachments**

**Attachment A:** Proposed Brochure Language

**Attachment B:** AB 2968

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## ATTACHMENT A

- 1• CONSUMERS
- 2• MEDIA
- 3• PUBLICATIONS
- 4• ONLINE SERVICES

### 5 Professional Therapy Never Includes Sexual Behavior

6 Printer Friendly Version

7 **State of California**  
8 **Department of Consumer Affairs**

9 Copyright © ~~2011~~2018, Department of Consumer Affairs

10 California's lawmakers, and licensing boards, and ethical therapists want the public to know that  
11 professional therapy never includes sexual contact between a therapist and a client. It also never  
12 includes inappropriate sexual suggestions, or any other kind of sexual behavior between a therapist  
13 and a client. Sexual contact of any kind between a therapist and a client is unethical and illegal in the  
14 State of California. Additionally, with regard to former clients, sexual contact within two years after  
15 termination of therapy is also illegal and unethical. It is always the responsibility of the therapist to  
16 ensure that sexual contact with a client, whether consensual or not, does not occur.

Commented [HR1]: Our Board members recommended striking this term, as lawmakers/licensing boards are the ones holding regulatory authority.

17 Dear Reader:

18 As a reader of "Professional Therapy Never Includes Sexual Contact," you may be a California  
19 consumer concerned about the conduct of your therapist. You may be a licensed therapist, or training  
20 to become a therapist. In any case, it's good to know more about the high standards of professional  
21 conduct expected—and required—in the therapy relationship.

22 Consumers are looking for professionals they can trust. Therapists value the trust of their patients.  
23 When this mutual trust is violated by sexual exploitation, everyone loses. The patient loses an  
24 opportunity for improved health and becomes a victim. The therapist stops being a healer and  
25 becomes a victimizer. And the profession itself loses when the good reputation of the many is  
26 diminished by the illegal conduct of a few.

27 The California Department of Consumer Affairs is dedicated to working with its professional licensing  
28 board partners to protect and educate consumers. If you are a victim of sexual abuse by a therapist,  
29 it's important for you to report your experience to the board that licenses your therapist.

30 This booklet offers guidance and resources for consumers. For more consumer guidelines and  
31 information, you may contact the appropriate licensing board or professional association, or contact  
32 the Department of Consumer Affairs at 1-800-952-5210 or [www.dca.ca.gov](http://www.dca.ca.gov).

33 California Department of Consumer Affairs

34 Publishing Information

35 The 2011 edition of "Professional Therapy Never Includes Sexual Contact" is published by the  
36 California Department of Consumer Affairs. This publication is a joint project of the California Board of  
37 Psychology, the California Board of Behavioral Sciences and the Department of Consumer Affairs'  
38 Office of Publications, Design & Editing.

39 This booklet is available in the "Publications" section of the Department of Consumer Affairs' Web  
40 sitewebsite at [www.dca.ca.gov](http://www.dca.ca.gov).

41 Single copies of the publication are available at no charge from the boards listed above and from  
42 Publications Office, California Department of Consumer Affairs, P.O. Box 989004, West Sacramento,  
43 CA 95798-0004.

44 This booklet may be copied, if (1) the meaning of copied text is not changed or misrepresented, (2)  
45 credit is given to the California Department of Consumer Affairs, and (3) all copies are distributed free  
46 of charge.

47 Acknowledgments

48 The Department of Consumer Affairs, the Board of Psychology and the Board of Behavioral Sciences  
49 wish to thank former Senator Diane Watson, whose Senate Task Force on Psychotherapist and  
50 Patient Sexual Relations prompted the development of "Professional Therapy Never Includes Sex" in  
51 1990.

52 Copyright © 2017, Department of Consumer Affairs

53 California law requires that the Department of Consumer Affairs provide an informational brochure for  
54 victims of psychotherapist-patient sexual contact and their advocates.

55 California's lawmakers, licensing boards, professional associations and ethical therapists want such  
56 inappropriate sexual behavior stopped. This booklet was developed to help patients who have been  
57 sexually exploited by their therapist. It outlines their rights and options for reporting what happened. It  
58 also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a  
59 "Patient Bill of Rights," and answers some frequently asked questions.

60

61 • Introduction

62 • Definition of Terms

63 • Client Rights

64 • Warning Signs

65 • What If It's Me?

66 • Common Reactions to Sexual Misconduct by a Therapist

67 • Where To Start

68 • What You Can Do

69 ——— Your Reporting Options

70  ——— More About Administrative Action

71  ——— More About Professional Association Action

72  ——— More About Civil Actions

73  ——— More About Criminal Action

74 • Where to Get Help

75 ——— Finding a Therapist

76 ——— Self-Help Support Groups

77 • Frequently Asked Questions

78 • Patient Bill of Rights

79

---

## 80 INTRODUCTION

81 Professional psychotherapy never includes sex. It also never includes verbal sexual advances or any  
82 other kind of sexual contact or behavior. Sexual contact of any kind between a therapist and a patient  
83 is unethical and illegal in the state of California. Additionally, with regard to former patients, sexual  
84 contact within two years after termination of therapy is also illegal and unethical.

85 Sexual behavior between a therapist and a patient/client can also be harmful to the patient/client. Harm  
86 may arise from the therapist's exploitation of the patient/client to fulfill his or her own needs or desires,  
87 and from the therapist's loss of the objectivity necessary for effective therapy. All therapists are trained  
88 and educated to know that this kind of behavior is illegal and unethical inappropriate and can result in  
89 the revocation of their professional license.

90 Therapists are trusted and respected, and it is common for patients to admire and feel attracted to  
91 them. by their clients, and it is not uncommon for clients to admire and feel attracted to them. However,  
92 a therapist who accepts or encourages the expression of these feelings through sexual behavior with  
93 the therapist/client these normal feelings in a sexual way - or tells a patient/client that sexual  
94 involvement is part of therapy - is illegal, unethical, and it violates the therapeutic relationship, and  
95 engages in conduct that may be illegal and unethical. using the trusting therapeutic relationship to take  
96 advantage of the patient. Once sexual involvement begins, therapy for the patient ends. The original  
97 issues that brought the patient to therapy are postponed, neglected, and sometimes lost. This kind of  
98 abusive behavior can cause harmful, long-lasting, emotional and psychological effects to the client.

99 Many people who endure this kind of abusive behavior from therapists suffer harmful, long-lasting  
100 emotional and psychological effects. Family life and friendships are often disrupted, or sometimes  
101 ruined.

102 California's lawmakers, licensing boards, professional associations and ethical therapists want such  
103 inappropriate sexual behavior stopped. This booklet was developed to help patients who have been  
104 sexually exploited by their therapists. It outlines their rights and options for reporting what happened. It  
105 also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a  
106 "Patient Bill of Rights," and answers some frequently asked questions.

107

## 108 DEFINITION OF TERMS

109 Throughout this booklet, the terms "therapist," "therapy" and "patient/client" will be used. "Therapist"  
110 refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and  
111 includes:

- 112 • Psychiatrists (physicians practicing psychotherapy) Physicians and Surgeons (Ppsychiatrists  
113 are Physicians and Surgeons)
- 114 • Psychologists
- 115 • Registered pPsychologists
- 116 • Psychological interns
- 117 • Psychological assistants
- 118 • Licensed eClinical social workers
- 119 • Registered associate eClinical eSocial workers
- 120 • Social Work Interns
- 121 • Licensed marriage and family therapists
- 122 • Registered Associate Marriage Marriage and F-family therapists, registered interns and  
123 trainees
- 124 • Marriage and Family Therapist Trainees
- 125 • Licensed professional eclinical ecounselors
- 126 • Registered Associate Professional eclinical ecounselors Interns

- 127 • [Professional Clinical Counselor Trainees](#)
- 128 • [Licensed Educational Psychologists](#)
- 129 • [Registered Research Psychoanalysts](#)

130 The terms "therapy," "therapist" and "patient" in this booklet also refer to educational psychology,  
 131 educational psychologists and their clients. Though educational psychologists do not practice  
 132 psychotherapy, these licensed professionals work with clients, performing educational evaluations,  
 133 diagnosis, and test interpretation.

134 "Therapy" includes any type of mental health counseling from any of the licensed or registered  
 135 professionals, therapists listed above<sup>1</sup>. "Client" "Patient" refers to anyone receiving therapy, or  
 136 counseling, or other services.

137 According to California laws:

138 Any act of sexual contact, sexual abuse, sexual exploitation, sexual misconduct or sexual relations by  
 139 a therapist with a patient client is unprofessional, illegal, as well as unethical, as set forth in Business  
 140 and Professions Code sections 726, 729, 2960(c), 4982(k), 4992.3(l), 4989.54(n), and 4999.90(k).

141 "Sexual contact" means the touching of an intimate part of another person, including sexual  
 142 intercourse.

143 ["Sexual behavior" means inappropriate contact or communication of a sexual nature. This definition  
 144 does not include the provision of appropriate therapeutic interventions relating to sexual issues.](#)

145 "Touching" means physical contact with another person either through the person's clothes or directly  
 146 with the person's skin.

147 "Intimate part" means the sexual organ, anus, groin or buttocks of any person, and the breast of a  
 148 female.

149 ["License" includes certificate, registration or other means to engage in a business or profession  
 150 regulated by Chapter 1, General Provisions, section 475 of the Business and Professions Code.](#)

151 ["Sexual behavior" means inappropriate contact or communication of a sexual nature.](#)

152 Sexual exploitation can include sexual intercourse, sodomy, oral copulation, or any other sexual  
 153 contact between a therapist and a patient or a former patient under certain circumstances. Sexual  
 154 misconduct includes a much broader range of activity, which may include fondling, kissing, spanking,  
 155 nudity, verbal suggestions, innuendoes or advances. This kind of sexual behavior by a therapist with a  
 156 patient is unethical, unprofessional and illegal.

## 157 **CLIENT RIGHTS**

158 **You, as a Client, have the right to:**

- 159 • [Request and receive information about the therapist's professional capabilities, including](#)  
 160 [licensure, education, training, experience, professional association membership,](#)  
 161 [specialization and limitations.](#)

<sup>1</sup> [Social Work Interns, Marriage and Family Therapist Trainees, and Professional Clinical Counselor Trainees are still in their Master's degree program and have not yet earned their graduate degree. They also are not registered with the Board of Behavioral Sciences yet. Complaints about these individuals should be directed to their supervisor, the agency that employs them, or their academic institution.](#)

**Commented [HR2]:** Added Social Work Interns, MFT Associates, and PCC Associates to the list above. Adding a footnote here to direct where a complaint should be filed, since these individuals are not under BBS jurisdiction yet.

**Commented [KK3]:** Already listed above this is duplicative.



- 162 • Be treated with dignity and respect.
- 163 • A safe environment, free from sexual, physical, and emotional abuse.
- 164 • Ask questions about your therapy or other services from your provider.
- 165 • Decline to answer any question or disclose any information you choose not to reveal.
- 166 • Request and receive information from the therapist about your progress toward your treatment goals.
- 167 • Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- 168 • Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- 169 • Decline a particular type of treatment, or end treatment without obligation or harassment.
- 170 • Refuse electronic recording.
- 171 • Request and (in most cases) receive a summary of your ~~file~~ records, including the diagnosis, your progress, and the type of treatment.
- 172 • Report unethical and illegal behavior by a therapist (see "What You Can Do").
- 173 • Receive a second opinion at any time about your therapy or your therapist's methods.
- 174 • Receive a copy of your ~~records~~ file or ~~h~~Have a copy of your ~~file~~ records transferred to any therapist or agency you choose.
- 175
- 176
- 177
- 178
- 179

Commented [HR4]: Changed "file" to "records" for consistency with references elsewhere in the document.

## 180 WARNING SIGNS

181 In most sexual ~~misconduct~~ abuse or exploitation cases, other inappropriate behavior comes first. While  
 182 it may be subtle or confusing, it usually feels uncomfortable to the ~~patient~~ client. Some clues or warning  
 183 signs are:

- 184 • Telling sexual jokes or stories-
- 185 • ~~"Making eyes at" or giving seductive looks to the patient.~~
- 186 • ~~Discussing the therapist's sex life or relationships excessively.~~
- 187 • Sending obscene images or messages to the client
- 188 • ~~Sitting too close, initiating hugging, holding the patient or lying next to the patient.~~ Unwanted  
 189 physical contact.
- 190 • Excessive out-of-session communication (e.g., text, phone, email, social media, etc.) not  
 191 related to therapy

192 Another warning sign is "special" treatment by a therapist, such as:

- 193 • Inviting a ~~patient~~ client to lunch, dinner, or other social and professional activities.
- 194 • Dating-
- 195 • Changing any of the office's business practices (for example ~~e.g.~~, scheduling late  
 196 appointments when no one is around, having sessions away from the office, etc.)-
- 197 • Confiding in a ~~patient~~ client (e.g., about the therapist's love life, work problems, loneliness,  
 198 marital problems, etc.)-
- 199 • Telling a ~~patient~~ client that he or she is special, or that the therapist loves him or her.
- 200 • Relying on a ~~patient~~ client for personal and emotional support-
- 201 • Giving or receiving significant gifts-

202 Signs of inappropriate behavior and misuse of power include:

- 203 • Hiring a ~~patient~~ client to do work for the therapist, or bartering goods or services to pay for  
 204 therapy.
- 205 • Suggesting or supporting the ~~patient~~ client's isolation from social support systems, increasing  
 206 dependency on the therapist-
- 207 • Providing or using alcohol (or drugs) during sessions-

Commented [BC5]: Per Dr. Casuga - The language here about bartering seems stronger than in the APA Ethical Guideline 6.05:

6.05 Barter With Clients/Patients  
 Barter is the acceptance of goods, services, or other nonmonetary remuneration from clients/patients in return for psychological services. Psychologists may barter only if (1) it is not clinically contraindicated, and (2) the resulting arrangement is not exploitative. (See also Standards 3.05, Multiple Relationships, and 6.04, Fees and Financial Arrangements.)

208 • Any violation of the patient's rights as a consumer (see "Patient Bill of Rights," page 24).

209 Therapy is meant to be a guided learning experience, during which therapists help patients to find their  
210 own answers and feel better about themselves and their lives. A patient should never feel intimidated  
211 or threatened by a therapist's behavior.

212 If you are experiencing any of these warning signs, you have the right to file a complaint with the  
213 appropriate licensing board and consult with another therapist. Trust your own feelings. Check on  
214 discuss the therapist's behavior with a different therapist, or with any of the agencies in "Where To  
215 Start" (see page 10). Depending on what you find out, you may want to find another therapist and  
216 report the inappropriate behavior to the proper licensing board.

## 217 **WHAT IF IT'S ME? COMMON REACTIONS TO SEXUAL MISCONDUCT BY A**

218

219 If a therapist has engaged in any sexual behavior or contact with you, you may experience some or all  
220 of the following feelings or reactions:

221 If you have been sexually abused or exploited by your therapist, you may be feeling confused. You  
222 may feel:

- 223 • ~~Intimidation~~ ~~Intimidated~~ or ~~threatened~~
- 224 • Guilty and responsible responsibility - even though it is the therapist's responsibility to keep  
225 sexual behavior out of therapy.
- 226 • Mixed feelings about the therapist – e.g., protectiveness, anger, love, betrayal.
- 227 • ~~Isolated~~ isolation and ~~empty~~ emptiness.
- 228 • Distrustful of others' feelings or intentions, or your own feelings.
- 229 • Fearful that no one will believe you. or understand what happened, or that someone will find  
230 out.
- 231 • Confused about dependency, control and power. Feeling victimized or violated
- 232 • Experiencing traumatic symptoms, e.g., anxiety, nightmares, obsessive thoughts, depression,  
233 or suicidal or homicidal thoughts

234 You may even have nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts.  
235 You may feel overwhelmed as you try to decide what to do or whom to tell.

236 It's essential that you face what happened. This may be painful, but it is the first major step in healing  
237 and recovering from the experience. You may have positive and negative feelings at the same time,  
238 such as starting to feel personal control, being afraid of what may happen in the future, remembering  
239 the experience, and feeling relieved that the sexual relationship is over.

240 The second step in the healing process is to decide what YOU want to do next. Try to be open-minded  
241 about your options.

242 Remember: **It doesn't matter** if you, the patient, started or wanted the sexual involvement with the  
243 therapist. Therapists are responsible for keeping sexual intimacy out of the therapy relationship and  
244 are trained to know how to handle a patient's sexual attractions and desires.

## 245 **WHERE TO START**

246 You may need to (1) talk to someone who will understand what you're going through, (2) get  
247 information on whether the therapist's behavior was illegal and/or unethical, and (3) find out what you  
248 can do about it. Three places to get help are:

- 249 • **Licensing Boards** – In the Department of Consumer Affairs, three different boards license  
250 therapists. They can give general information on appropriate behavior for therapists and your

Commented [HR6]: Use the same tense for both words.

251 rights for reporting what happened, as well as how to file a complaint (see page 13 for  
252 licensing board contact information).  
253 • **Sexual Assault/Crisis Centers** – These centers have staff trained in all types of sexual abuse  
254 and exploitation. They can provide general information on appropriate behavior for therapists,  
255 crisis services, your rights for reporting what happened, and names of therapists and support  
256 groups that may be helpful. Centers are located throughout California. Look in your telephone  
257 book under “sexual assault center” or “crisis intervention service.”  
258 • **Professional Associations** – Each licensed therapy profession has at least one professional  
259 association. Associations can provide general information on appropriate behavior for  
260 therapists, your rights for reporting what happened, and how to file a complaint. They can  
261 provide names of therapists who may be helpful (see pages 16-17 for association contact  
262 information).

## 263 WHAT YOU CAN DO

264 You can deal with your situation in several different ways. Take time to explore all of your rights and  
265 options. It may help to decide what your goals are:

266 **Reporting the Therapist** – Perhaps you want to prevent the therapist from hurting other patients. You  
267 may want to make it known that sexual exploitation is always wrong. If this is your decision, you have  
268 several reporting options (see page 12). What happened to you may be illegal and unethical and you  
269 should report it to the appropriate licensing board as soon as possible in order for the board to take  
270 appropriate action within the statute of limitations.  
271

272 It is important to note that reporting misconduct is time sensitive. What can be done in response to the  
273 report of misconduct usually depends on who the misconduct is reported to and the length of time  
274 between the misconduct and when the report was filed.

275 Such a time limit is called a “statute of limitations.” As you consider your options, be aware of these  
276 time limits.  
277

- 278 • **Your Recovery** – You may also want to explore and process what happened between you  
279 and the therapist. If you decide to do this, you can look into therapy or support groups (see  
280 pages 20-21).
- 281 • **Moving On** – You may wish simply to move on past this experience as quickly as possible and  
282 get on with your life. Remember – you have the right to decide what is best for you.

## 283 YOUR REPORTING OPTIONS

284 If you decide to report a therapist's behavior that you believe is unethical and illegal, there are four  
285 different ways to do so. All of these reporting options are affected by time limits, so you should  
286 consider reporting misconduct at the earliest appropriate opportunity. You may choose one or more of  
287 the options listed below. These options and their time limits are discussed in more detail on the  
288 following pages:

- 289 • **Administrative Action** – File a complaint with the therapist's licensing board. (See “More  
290 About Administrative Action,” page 13.)
- 291 • **Professional Association Action** – File a complaint with the ethics committee of the  
292 therapist's professional association. (See “More About Professional Association Action,” page  
293 15.)
- 294 • **Civil Action** – File a civil lawsuit. (See “More About Civil Action,” page 18.)
- 295 • **Criminal Action** – File a complaint with local law enforcement. (See “More About Criminal  
296 Action,” page 19.)

297 **More About Administrative Action**

298 In California, there are ~~four (4)~~<sup>three (3)</sup> boards that license and regulate therapists. Three California  
299 boards license and regulate therapists:

300 **Board of Behavioral Sciences**

301 1625 N. Market Blvd., Suite S-200

302 Sacramento, CA 95834

303 (916) 574-7830

304 [www.bbs.ca.gov](http://www.bbs.ca.gov)

305 This board licenses and regulates licensed educational psychologists; licensed clinical social workers;  
306 registered associate clinical social workers; licensed marriage and family therapists; registered  
307 associate marriage and family therapists; interns; licensed professional clinical counselors; and  
308 registered professional associate professional clinical counselors interns.

309 **Board of Psychology**

310 2005 Evergreen Street, Suite 1400

311 Sacramento, CA 95815

312 1625 N. Market Blvd., Suite N-215

313 Sacramento, CA 95834

314 (916) 263-2699(916) 574-7720

315 [www.psychboard.ca.gov](http://www.psychboard.ca.gov) [www.psychology.ca.gov](http://www.psychology.ca.gov)

316 This board licenses and regulates psychologists, psychological assistants, and registered  
317 psychologists.

318 **Medical Board of California**

319 2005 Evergreen Street, Suite 1200

320 Sacramento, CA 95815

321 (916) 263-2389

322 [www.mbc.ca.gov](http://www.mbc.ca.gov)

323 This board licenses and regulates allopathic (MD) physicians and surgeons, including (psychiatrists  
324 are physicians and surgeons) and research psychoanalysts.

325 **Osteopathic Medical Board of California**

326 1300 National Drive, Suite 150

327 Sacramento, CA 95834-1991

328 (916) 928-8390

329 [www.ombc.ca.gov](http://www.ombc.ca.gov)

330 This board licenses and regulates osteopathic (DO) physicians and surgeons (psychiatrists).

331 The purpose of these licensing boards is to protect the health, safety and welfare of consumers.  
332 Licensing boards have the power/authority to discipline therapists by using the administrative law  
333 process. Depending on the violation, the board may revoke or suspend a license, and/or place a  
334 license on probation with terms and conditions the licensed professional must follow. When a license is  
335 revoked, the therapist cannot legally practice.

336 In many cases, the California Business and Professions Code requires revocation of a therapist's  
337 license or registration whenever sexual misconduct is admitted or proven.

338 It is best to report any case of therapist-patient sexual exploitation as soon as possible, since delays  
339 may restrict the disciplinary options available to the board. Time limits require a licensing board to  
340 initiate disciplinary action by filing an "accusation" against a licensed professional accused of sexual  
341 misconduct:

342 - within three years from the date the board discovered the alleged sexual misconduct, or

343 - within 10 years from the date the alleged sexual misconduct occurred.

344 That means an accusation of sexual misconduct against a therapist can't be filed more than 10 years  
345 after the alleged incident. For complaints involving allegations other than sexual misconduct, the  
346 licensing board must file an accusation within seven years from the date of the alleged offense.

#### 347 **How to File a the Complaint Process Works**

348 The licensing boards can give you information about the complaint filing process and discuss your  
349 situation with you. To file a complaint, you can request a complaint form, write a letter, or start the  
350 complaint process online with the appropriate licensing board. With your complaint, be sure to include  
351 your name, address, and telephone number; the therapist's name, address, and telephone number; a  
352 description of your complaint; copies of any available documentation (for example, letters, bill receipts,  
353 canceled checks, or pictures); and names, addresses and telephone numbers of any witnesses.

354 Each complaint is evaluated and investigated, and you and the therapist will be notified if the board  
355 has sufficient evidence to initiate disciplinary action. You and the therapist will be interviewed  
356 separately.

357 Most cases are settled by a *stipulated agreement* – the therapist typically admits to the violation(s) and  
358 accepts the disciplinary action, no hearing is held, and the patient does not have to testify. In the event  
359 that your case is not settled by a stipulated agreement, a hearing will be held by an administrative law  
360 judge, and you will be required to testify. When the judge makes a decision about the case, the board  
361 will then decide whether to accept this decision or to issue its own decision.

362 It is board policy to use only initials, rather than full names, to identify patients in public disciplinary  
363 documents. However, hearings are open to the public, and there is a possibility that confidentiality may  
364 be jeopardized during the investigation process or at the hearing itself. If you are concerned about this,  
365 discuss it with the licensing board investigator.

366 The disciplinary process may take about two years from the time a complaint is received to the time a  
367 final decision is made. Sometimes the process takes longer. Keep in mind that you cannot receive  
368 monetary compensation from the therapist by using this option, but you may affect the therapist's  
369 ability to practice and thereby protect other patients from similar misconduct.

370 You can submit your complaint online or in writing using the forms on the board's website to start the  
371 process. You should provide as much information as possible, but it is especially helpful to provide  
372 additional the following information, if available, such as:

- 373 • Detailed description of the conduct you are reporting.
- 374 • Copies of materials that support your complaint, e.g., e-mails, text messages, correspondence  
375 between you and the therapist, photographs or other images you shared with or received from  
376 the therapist, etc.

377 The board will require a signed release form, authorizing the board to obtain your records from the  
378 therapist. These records are required for official use, including investigation and possible  
379 administrative proceedings regarding any violations of the law. Your complaint will be evaluated,  
380 investigated, and you will be notified of the outcome.

381 The following are possible outcomes of your complaint:

- 382 • Revocation or/ surrender of the therapist's license: This results in the loss of license and right  
383 to practice.
- 384 • Probation: The therapist's license may be placed on probation for a defined period of time,  
385 with terms and conditions that must be complied with, in order to continue to practice.
- 386 • Case closed and no action taken against the therapist's license: the board could not  
387 substantiate a violation of the laws and regulations.

388 It is board policy to use only initials, rather than full names, to identify clients in public disciplinary  
389 documents. However, hearings are open to the public, and you may be asked to testify. All disciplinary  
390 actions are public information.

391 In addition to filing a complaint with the appropriate regulatory board, you may also have civil remedies  
392 and criminal recourse. Legal remedies available to you in regard to this incident.

Commented [BC7]: This language is added to meet the amendments to BPC 337 in AB 2968

393 **More About Professional Association Action**

394 Many therapists join professional associations – organizations that provide education and guidance to  
395 members of a profession. Each association has ethics guidelines, and all such guidelines state that  
396 sexual involvement with patients is unacceptable and unethical.

397 If your therapist is a member of a professional association, you may file a formal complaint with the  
398 association. After investigating the complaint, the association may recommend disciplinary actions that  
399 may include removal of the therapist from its membership. Removing a therapist from the association  
400 will let other members know about the person's unethical behavior, **but it will not keep the therapist**  
401 **from practicing.** Only a licensing board or court action can do that. In addition, the action will not  
402 result in monetary recovery for you (only a civil action can do that), and will not result in criminal action  
403 against the therapist.

404 Each association has different ways of filing complaints. Call or write the appropriate association for  
405 this information. To find out which association, if any, the therapist belongs to, call the therapist's office  
406 and request this information; have a friend call the office or therapist for you; or check with the different  
407 associations.

408 **Professional Associations**

409 Most professional association ethics committees will typically review only those complaints that include  
410 allegations made within one year of the date of the alleged misconduct.

411 Contact the appropriate association for specifics on reporting professional misconduct, or to get more  
412 general information.

413 **Psychiatrist, Physician**

414 American Psychiatric Association  
415 1000 Wilson Blvd, Suite 1825  
416 Arlington, VA 22209  
417 (888) 357-7924  
418 [www.psychiatry.org](http://www.psychiatry.org)

419 California Medical Association  
420 1201 J Street, Suite 200  
421 Sacramento, CA 95814  
422 (916) 444-5532  
423 [www.cmanet.org](http://www.cmanet.org)

424 California Psychiatric Association  
425 1029 K Street, Suite 28  
426 Sacramento, CA 95814  
427 (916) 442-5196  
428 [www.calpsych.org](http://www.calpsych.org)

429 **Licensed Psychologist**

430 American Psychological Association  
431 750 First Street, NE  
432 Washington, DC 20002  
433 (800) 374-2721  
434 [www.apa.org](http://www.apa.org)

435 California Psychological Association  
436 1231 I Street, Suite 204  
437 Sacramento, CA 95814

438 (916) 286-7979  
439 [www.epapsych.org](http://www.epapsych.org)

440 **Licensed Clinical Social Worker**

441 National Association of Social Workers, California Chapter  
442 1016 23rd Street  
443 Sacramento CA 95816  
444 (916) 442-4565  
445 [www.naswde.org](http://www.naswde.org)

446 National Association of Social Workers  
447 750 First Street, NE, Suite 700  
448 Washington, DC 20002  
449 (202) 408-8600  
450 [www.naswde.org](http://www.naswde.org)

451 California Society for Clinical Social Work  
452 6060 Sunrise Vista Drive, Suite 1300  
453 Citrus Heights, CA 95640  
454 (916) 560-9238  
455 [clinicalsocialworksociety.org](http://clinicalsocialworksociety.org)

456 **Licensed Educational Psychologist**

457 California Association of Licensed Educational Psychologists  
458 P.O. Box 387  
459 Aptos, CA 95004  
460 [www.calep.com](http://www.calep.com)

461 California Association of School Psychologists  
462 1020 12th Street, Suite 200  
463 Sacramento, CA 95814  
464 (916) 444-1595  
465 [www.caspenline.org](http://www.caspenline.org)

466 **Licensed Marriage and Family Therapist**

467 American Association for Marriage and Family Therapy  
468 112 South Alfred Street  
469 Alexandria, VA 22314-3061  
470 (703) 838-9808  
471 [www.aamft.org](http://www.aamft.org)

472 American Association for Marriage and Family Therapy, California Division  
473 Post Office Box 6907  
474 Santa Barbara, CA 93160  
475 (800) 662-2638  
476 (805) 681-1413  
477 [aamftea.org](http://aamftea.org)

478 California Association of Marriage and Family Therapists  
479 7904 Raytheon Road  
480 San Diego, CA 92114  
481 (858) 292-2638  
482 [www.camft.org](http://www.camft.org)

483 **Licensed Professional Clinical Counselors**

484 California Association for Licensed Professional Clinical Counselors  
485 P.O. Box 280640  
486 Northridge, CA 91328  
487 <http://calpcc.org/>

#### 488 **More About Civil Action**

#### 489 **Suing the Therapist or Their Employer**

490 Generally, civil lawsuits are filed to seek money for damages or injuries to a patient. For a sexual  
491 misconduct case, a patient may want to sue the therapist for injuries suffered and for the cost of future  
492 therapy sessions.

493 Under California law, you may file a lawsuit against the therapist or the therapist's employer if you  
494 believe the employer knew or should have known about the therapist's behavior. If the employer is a  
495 local or state public mental health agency for which the therapist works, you must first file a complaint  
496 with the agency within six months of the sexual misconduct. Consult with an attorney for specific  
497 advice.

498 If you think you want to file a lawsuit, it is important to consult an attorney as soon as possible, since  
499 there are different time limits for filing civil lawsuits. Most civil lawsuits must be filed within one year  
500 after the sexual misconduct occurred.

#### 501 **Media Attention**

502 Once a lawsuit is filed, there is the possibility of media coverage, especially if the patient or therapist is  
503 well-known. While many cases are settled out of court, some do go to trial, and it can take years  
504 before your case is tried.

#### 505 **Patients Don't Always Win**

506 You should be aware that some cases end up being decided in favor of the therapist, rather than the  
507 patient.

#### 508 **Finding an Attorney**

509 Take time to choose an attorney to represent you. You may need to interview several. Here are some  
510 points to consider:

- 511 ● Get a list of attorneys from your County Bar Association's referral service. You can also check  
512 with your local legal aid society for legal assistance.
- 513 ● Contact a lawyer referral service certified by the State Bar of California. To find a certified  
514 lawyer referral service, look in the telephone book yellow pages at the beginning of the  
515 "Attorneys" listings, or visit the State Bar Web site at [www.calbar.ca.gov](http://www.calbar.ca.gov).
- 516 ● Check with the State Bar of California ([www.calbar.ca.gov](http://www.calbar.ca.gov)) to make sure the attorney has a  
517 clear license.
- 518 ● While some attorneys are willing to wait to be paid based on the outcome of the suit  
519 (contingency basis), some will not.
- 520 ● Be sure that the attorney has civil litigation experience in the area of medical and/or  
521 psychological malpractice.
- 522 ● Make sure that you feel comfortable with your attorney and can trust and confide in him or  
523 her.

#### 524 **More About Criminal Action**

525 Sexual exploitation of patients by therapists is wrong. The law makes it a crime for a therapist to have  
526 sexual contact with a patient. For a first offense with only one victim, an offender would probably be  
527 charged with a misdemeanor. For this charge, the penalty may be a sentence of up to one year in  
528 county jail, or up to \$1,000 in fines, or both. Second and following offenses, or offenses with more than



529 one victim, may be misdemeanors or felonies. The penalty in such felony cases can be up to three  
530 years in prison, or up to \$10,000 in fines, or both.

531 This law applies to two situations:

- 532 • The therapist has sexual contact with a patient during therapy, or
- 533 • The therapist ends therapy primarily to start having sexual contact with the patient (unless the  
534 therapist has referred the patient to an independent and objective therapist who has been  
535 recommended by a third-party therapist).

536 To file a criminal complaint against a therapist:

- 537 • Contact your local law enforcement agency. Many agencies in larger cities have sexual  
538 assault units that handle these complaints.
- 539 • Contact your local victim/witness assistance program for help through the legal process. Look  
540 in your local telephone book under "District Attorney" or call 1-800-VICTIMS (842-8467).

541 Once a complaint is filed, it will be investigated by the law enforcement agency, which will give the  
542 results of the investigation to the district attorney's office. The district attorney's office will decide  
543 whether there is enough evidence to file criminal charges.

544 Time limits, or statutes of limitations, affect this reporting option. If you are considering this option,  
545 contact your local law enforcement agency. The agency's authority to take action may expire as soon  
546 as one year from the date the alleged misconduct occurred.

## 547 WHERE TO GET HELP

548 Many patients who have been sexually exploited by therapists find it difficult to see another therapist  
549 for help and support. However, for most people, the issues that brought them to therapy were never  
550 worked on or resolved, and the sexual exploitation created even more issues to handle. If this is your  
551 situation, therapy may be an important tool in your healing process.

552 Therapy may be an important tool in your recovery. Before selecting a new therapist, here are a few  
553 considerations/suggestions to support that process: interview several until you find one you are  
554 comfortable with. Use the "Patient Bill of Rights" as a guide (see page 24). If you are unsure after one  
555 session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do  
556 not feel pressured to stay with one therapist.

### 557 Finding a Therapist

558 Some ways of finding a therapist are:

- 559 • Asking someone you know and trust for a referral, who has been in therapy, who feels good  
560 about the experience and who has changed in ways you consider positive.
- 561 • Calling your local sexual assault center or crisis intervention service (in the telephone book  
562 yellow pages). These centers can refer you to therapists experienced in dealing with those  
563 who have suffered sexual exploitation or abuse.
- 564 • Calling professional associations (see pages 16-17) and asking for referrals to therapists who  
565 specialize in helping those who have been sexually abused or exploited by therapists.
- 566 • Searching online for a local sexual assault center or crisis intervention service. These centers  
567 can refer you to therapists experienced in dealing with those who have suffered sexual  
568 misconduct by a therapist.
- 569 • Contacting professional associations and asking for referrals to therapists who specialize in  
570 helping those who have suffered sexual misconduct by a therapist.
- 571 • Seeking a referral from your primary care physician or insurance provider.

572 After getting several names, call the appropriate licensing board (see page 13) or visit their Web site  
573 for on-line license verification and disciplinary actions. You can also call the professional association  
574 (see pages 16-17) and ask if the therapists are licensed and if any disciplinary actions have been filed  
575 against them. Check with your county Superior Court to see if there is a record of any malpractice  
576 lawsuits filed against the therapists. Visit the board's website to verify the status of the therapist's  
577 license.

#### 578 **Self-Help Support Groups**

579 There is an informal network of self-help support groups throughout California. While there might not  
580 be a group in your area specifically focused on sexual exploitation by therapists, there may be groups  
581 dealing with more general kinds of sexual abuse. To find out if there are any groups in your area, call  
582 your local sexual assault center or crisis intervention service (listed in the telephone book yellow  
583 pages).

#### 584 **FREQUENTLY ASKED QUESTIONS**

##### 585 • **Is it normal to feel attracted to my therapist?**

586 Yes. It is normal to feel attracted to someone who is attentive, kind, and caring. This is a  
587 common reaction toward someone who is helping you. However, all therapists are trained to  
588 be aware of this and to maintain a professional therapy relationship that is beneficial to the  
589 patient/client.  
590

##### 591 • **What if I was the one who brought up having sex the client initiated sexual behavior?**

592 That doesn't matter. The therapist is the one who is responsible for keeping ensuring that  
593 sexual intimacy behavior or contact is not part of therapy.  
594

##### 595 • **Does this happen a lot?**

596 A national study revealed that probably fewer than 10 percent of all therapists have had  
597 sexual contact with their patients and that 80 percent of the sexual-exploiting therapists have  
598 exploited more than one patient. If a therapist is sexually exploiting a patient, they have  
599 probably done so before and are likely to do so again. In recent years, aggressive prosecution  
600 of offending therapists and passage of laws that facilitate the enforcement work of licensing  
601 boards have helped to significantly reduce the number of such cases reported to the licensing  
602 boards.

##### 603 • **Why do some therapists sexually exploit their patients?**

604 There are probably as many excuses as there are therapists who engage in such  
605 unprofessional conduct. But no excuse is acceptable for a therapist to abuse the therapeutic  
606 relationship and the trust of a patient for the therapist's own sexual gain. All therapists should  
607 know that this conduct is unethical and illegal.

##### 608 • **Why do I feel scared or confused about reporting my therapist?**

609 In most cases, the therapist is an important person in the client's life. Therefore, feelings of  
610 such as fear, confusion, protectiveness, shame or guilt are common. Get as much information  
611 as possible about your options. Keep in mind that you are in control and can choose what to  
612 do.  
613

##### 614 • **What if the therapist retaliates against me, harasses me or files a lawsuit against me for reporting him or her?**

615  
616 Retaliation against a patient or harassment of a patient is illegal. Contact your local district  
617 attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in

618 the lawsuit. However, the law does provide immunity from monetary liability for reporting  
619 misconduct to a licensing board.

620 • **How can I prevent this from happening again?**

- 621 1. Acknowledge your right to be free from sexual exploitation.  
622 2. When choosing a therapist, check with the licensing board (see page 13) to see if the  
623 therapist is licensed and if the license is under suspension or probation. Check on any  
624 complaints filed with a professional association. Review county Superior Court records to  
625 see if any malpractice lawsuit judgments are on file against the therapist.  
626 3. Question any action that may seem sexual.  
627 4. Remember that feelings of attraction are natural, therapy is supposed to be a means to  
628 explore and resolve feelings, without having to act them out.  
629 5. Feel free to end a relationship that no longer seems safe.

630 • **Can I file a complaint if there is or has been a civil case between myself and the**  
631 **therapist?**

632 Yes, you may file a complaint at any time, whether the case is ongoing or concluded. A civil  
633 settlement cannot preclude you from filing a complaint against a licensee.

634 • **Is there a cost associated with filing a complaint?**

635 No, filing a complaint is free and can be filed via telephone, email, mail, or online.

636 • **Can I file a complaint if I had a personal relationship with my therapist?**

637 Yes.

638 • **Can I contact the therapist after I file a complaint?**

639 In order to preserve the integrity of the investigation, it is strongly recommended that you do  
640 not initiate contact with the therapist once you have filed a complaint.

641 • **What if the therapist contacts me after I file a complaint?**

642 Once you have filed a complaint, notify the board right away if the therapist contacts you.

643 **Can I file an anonymous complaint with a licensing board?**

644 Anonymous complaints are accepted, but they are almost impossible to investigate without the  
645 cooperation of the accuser.

646

647 **PATIENT BILL OF RIGHTS**

648 **Patients have the right to:**

- 649 • Request and receive information about the therapist's professional capabilities, including  
650 licensure, education, training, experience, professional association membership,  
651 specialization and limitations.

- 652 ● Have written information about fees, payment methods, insurance reimbursement, number of
- 653 sessions, substitutions (in cases of vacation and emergencies), and cancellation policies
- 654 before beginning therapy.
- 655 ● Receive respectful treatment that will be helpful to you.
- 656 ● A safe environment, free from sexual, physical and emotional abuse.
- 657 ● Ask questions about your therapy.
- 658 ● Refuse to answer any question or disclose any information you choose not to reveal.
- 659 ● Request and receive information from the therapist about your progress.
- 660 ● Know the limits of confidentiality and the circumstances in which a therapist is legally required
- 661 to disclose information to others.
- 662 ● Know if there are supervisors, consultants, students, or others with whom your therapist will
- 663 discuss your case.
- 664 ● Refuse a particular type of treatment, or end treatment without obligation or harassment.
- 665 ● Refuse electronic recording (but you may request it if you wish).
- 666 ● Request and (in most cases) receive a summary of your file, including the diagnosis, your
- 667 progress, and the type of treatment.
- 668 ● Report unethical and illegal behavior by a therapist (see "Your Reporting Options," page 12).
- 669 ● Receive a second opinion at any time about your therapy or therapist's methods.
- 670 ● Have a copy of your file transferred to any therapist or agency you choose.

671

672

#### 673 Publishing Information

674 The 2018 edition of "Therapy Never Includes Sexual Behavior" is published by the California  
 675 Department of Consumer Affairs. This publication is a joint project of the California Board of  
 676 Psychology, the California Board of Behavioral Sciences, the Medical Board of California, the  
 677 Osteopathic Medical Board of California, and the Department of Consumer Affairs' Office of  
 678 Publications, Design & Editing.

679 This publication, and its previous versions, are the result of the dedicated work of former Senator  
 680 Diane Watson, whose Senate Task Force on Psychotherapist and Patient Sexual Relations prompted  
 681 the development of the original "Professional Therapy Never Includes Sex" brochure in 1990.

682 This booklet is available in the "Publications" section of the Department of Consumer Affairs' website  
 683 at [www.dca.ca.gov](http://www.dca.ca.gov).

684 Single copies of the publication are available at no charge from the boards listed above. For larger  
 685 quantities, please contact the ~~and from~~ Publications Office, California Department of Consumer Affairs,  
 686 ~~P.O. Box 989004, West Sacramento 1625 N. Market Blvd., Suite N-119, Sacramento, CA 95798-0004~~  
 687 ~~95834. The Publications Office can also be contacted via phone at (866) 320-8652 or (916) 574-7370.~~

688 This booklet may be copied, if (1) the meaning of copied text is not changed or misrepresented, (2)  
 689 credit is given to the California Department of Consumer Affairs, and (3) all copies are distributed free  
 690 of charge.

691

Commented [HR8]: This is the contact information that the Publications Office provides on their request form on DCA's public web site.

## Assembly Bill No. 2968

### CHAPTER 778

An act to amend Sections 337 and 728 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 26, 2018. Filed with  
Secretary of State September 26, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2968, Levine. Psychotherapist-client relationship: victims of sexual behavior and sexual contact: informational brochure.

Existing law requires the Department of Consumer Affairs to prepare and disseminate an informational brochure for victims of psychotherapist-patient sexual contact and their advocates, and requires the brochure to be developed by the department in consultation with the office of Criminal Justice Planning and the office of the Attorney General, as specified. Existing law requires the brochure to include specified subjects and requires the brochure to be provided to individuals who contact the Medical Board of California and affiliated health boards or the Board of Behavioral Sciences regarding a complaint involving psychotherapist-patient sexual relations.

This bill would instead require the brochure to be prepared, developed, and disseminated by the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California. The bill would require that the brochure also be for victims of psychotherapist-client sexual behavior. The bill would revise the required content of the brochure, would require the brochure to be made available on the Internet Web sites of the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California, and would require the brochure to be provided to each individual contacting those boards regarding a complaint involving psychotherapist-client sexual behavior and sexual contact. The bill would also make conforming changes.

Existing law requires a psychotherapist or an employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact, as defined, with a previous psychotherapist to provide a brochure developed by the department that delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapists. Existing law defines "psychotherapist" for purposes of those provisions to include various mental health practitioners and makes a failure to comply unprofessional conduct.

This bill would make this requirement also apply in the case of alleged sexual behavior, as defined, with a previous psychotherapist and would specify that the required brochure is the above-described brochure. The bill

would also expand the list of mental health practitioners included in the definition of “psychotherapist” for those purposes.

This bill would incorporate additional changes to Section 728 of the Business and Professions Code proposed by AB 93 to be operative only if this bill and AB 93 are enacted and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 337 of the Business and Professions Code is amended to read:

337. (a) The Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California shall prepare and disseminate an informational brochure for victims of psychotherapist-client sexual behavior and sexual contact and their advocates. This brochure shall be developed by the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California.

(b) The brochure shall include, but is not limited to, the following:

(1) A legal and an informal definition of psychotherapist-client sexual behavior and sexual contact.

(2) A brief description of common personal reactions.

(3) A client’s bill of rights.

(4) Instructions for reporting psychotherapist-client sexual behavior and sexual contact.

(5) A full description of administrative complaint procedures.

(6) Information that other civil and criminal remedies may also be available to them in regards to the incident.

(7) A description of services available for support of victims.

(c) The brochure shall be provided to each individual contacting the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, or the Osteopathic Medical Board of California regarding a complaint involving psychotherapist-client sexual behavior and sexual contact.

(d) The brochure shall be made available on the Internet Web sites of the Board of Behavioral Sciences, the Board of Psychology, the Medical Board of California, and the Osteopathic Medical Board of California.

SEC. 2. Section 728 of the Business and Professions Code is amended to read:

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a brochure developed pursuant to Section 337 that delineates the rights of, and remedies for, clients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss the brochure with the client.

- (b) Failure to comply with this section constitutes unprofessional conduct.
- (c) For the purpose of this section, the following definitions apply:
  - (1) “Psychotherapist” means any of the following:
    - (A) A physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy.
    - (B) A psychologist.
    - (C) A psychological assistant.
    - (D) A registered psychologist.
    - (E) A trainee under the supervision of a licensed psychologist.
    - (F) A marriage and family therapist.
    - (G) An associate marriage and family therapist.
    - (H) A marriage and family therapist trainee.
    - (I) A licensed educational psychologist.
    - (J) A clinical social worker.
    - (K) An associate clinical social worker.
    - (L) A licensed professional clinical counselor.
    - (M) An associate professional clinical counselor.
    - (N) A clinical counselor trainee.
  - (2) “Sexual behavior” means inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.
  - (3) “Sexual contact” means the touching of an intimate part of another person.
  - (4) “Intimate part” and “touching” have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.
  - (5) “The course of a prior treatment” means the period of time during which a client first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the client as being within his or her scope of practice, until the psychotherapist-client relationship is terminated.

SEC. 2.5. Section 728 of the Business and Professions Code is amended to read:

728. (a) Any psychotherapist or employer of a psychotherapist who becomes aware through a client that the client had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client a brochure developed pursuant to Section 337 that delineates the rights of, and remedies for, clients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss the brochure with the client.

- (b) Failure to comply with this section constitutes unprofessional conduct.
- (c) For the purpose of this section, the following definitions apply:
  - (1) “Psychotherapist” means any of the following:
    - (A) A physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy.
    - (B) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900).

- (C) A psychological assistant.
- (D) A registered psychologist.
- (E) A trainee under the supervision of a licensed psychologist.
- (F) A marriage and family therapist.
- (G) An associate marriage and family therapist.
- (H) A marriage and family therapist trainee.
- (I) A licensed educational psychologist.
- (J) A clinical social worker.
- (K) An associate clinical social worker.
- (L) A licensed professional clinical counselor.
- (M) An associate professional clinical counselor, as specified in Chapter 16 (commencing with Section 4999.10).
- (N) A clinical counselor trainee, as specified in Chapter 16 (commencing with Section 4999.10).

(2) “Sexual behavior” means inappropriate contact or communication of a sexual nature. “Sexual behavior” does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(3) “Sexual contact” means the touching of an intimate part of another person.

(4) “Intimate part” and “touching” have the same meanings as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.

(5) “The course of a prior treatment” means the period of time during which a client first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the client as being within his or her scope of practice, until the psychotherapist-client relationship is terminated.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 728 of the Business and Professions Code proposed by both this bill and Assembly Bill 93. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 728 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 93, in which case Section 2 of this bill shall not become operative.

O





Board of Behavioral Sciences

# Memo

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members **Date:** February 13, 2019  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Proposed Language: New LMFT Degree Title**

---

## Summary

The Board has been asked to consider adding a new degree title to those accepted for licensure as a marriage and family therapist (LMFT). At its August 2018 meeting, the Board approved the addition of a new title, "Clinical Mental Health Counseling with a concentration in Marriage, Family, and Child Counseling," to increase portability of licensure to other states. However, upon further review, staff has determined that additional fine-tuning of the proposed title is needed.

## Background

The Board currently accepts doctoral or master's degrees with the following titles toward an LMFT license for in-state applicants:

- Marriage, Family, and Child Counseling;
- Marriage and Family Therapy;
- Couple and Family Therapy;
- Psychology;
- Clinical Psychology;
- Counseling Psychology;
- Counseling with an emphasis in Marriage, Family, and Child Counseling; or
- Counseling with an emphasis in Marriage and Family Therapy

Argosy University has requested that the Board add an additional title because of a problem they are having with their "Counseling Psychology" degree program. This degree, which is offered in California, prepares its students for both LMFT and LPCC licensure in California. However, it is not accepted toward licensure in many other states.

Argosy University notes that many states are requiring accreditation from the Council for Accreditation of Counseling & Related Educational Programs (CACREP). According to the "2016 CACREP Standards," degree specialty areas consist of the following (2016 CACREP Standards, Section 1, Part J) (**Attachment C**):

- Addiction Counseling;

- Clinical Mental Health Counseling;
- Clinical Rehabilitation Counseling;
- Marriage, Couple, and Family Counseling;
- Career Counseling;
- College Counseling and Student Affairs; and
- School Counseling

Therefore, the difficulty is while an individual who wants to be dually licensed as an LMFT and an LPCC in California can obtain a degree in “Counseling Psychology” and become dually licensed in this state, if they decide to move to another state that requires CACREP accreditation for licensure, the degree title may not be acceptable for one or both licenses. The newly proposed license title will add a dual license track that is consistent with CACREP standards.

### **History**

The last time a new degree title was added to the list of those acceptable for LMFT licensure was in 2012, when the “Couple and Family Therapy” title was added via an omnibus bill (SB 943, Chapter 350, Statutes of 2011). At that time, a growing number of graduate programs nationwide had begun offering degrees in “Couple and Family Therapy.” The Board determined that adding the title would acknowledge the greater diversity of relationships with which LMFTs work.

### **Policy and Advocacy Committee Recommendation**

At its February 8, 2019 meeting, the Policy and Advocacy Committee recommended that the Board consider approving the proposed language.

### **Recommendation**

Conduct an open discussion of the proposed language shown in **Attachment A**, which permits a degree in either counseling or clinical mental health counseling, with an emphasis in either marriage, family, and child counseling or marriage and family therapy. If the Board approves of the language as written, direct staff to pursue legislation to make the change.

### **Attachments**

**Attachment A:** Proposed Language – New LMFT Degree Title

**Attachment B:** Letter from Joffrey S. Suprina, PhD., LMHC, NCC; National Dean, College of Counseling, Psychology and Social Sciences, Argosy University. (March 14, 2018)

**Attachment C:** 2016 CACREP Standards; Section 1: The Learning Environment; Part J

**ATTACHMENT A  
NEW LMFT DEGREE TITLE**

**NOTE: SECTIONS SHOWN ARE PARTIAL.**

**AMEND §4980.36. QUALIFYING DEGREE PROGRAM FOR LICENSURE OR REGISTRATION; BEGINNING GRADUATE STUDY AFTER AUGUST 1, 2012 OR COMPLETING GRADUATE STUDY AFTER DECEMBER 31, 2018**

(a) This section shall apply to the following:

- (1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.
- (2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.
- (3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.

(b) To qualify for a license or registration, applicants shall possess a doctoral or master's degree meeting the requirements of this section in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or either counseling or clinical mental health counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy. The degree shall be obtained from a school, college, or university approved by the Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education, or a regional or national institutional accrediting agency that is recognized by the United States Department of Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval.

**AMEND §4980.37. QUALIFYING DEGREE PROGRAM FOR LICENSURE OR REGISTRATION; BEGINNING GRADUATE STUDY BEFORE AUGUST 1, 2012 AND COMPLETING GRADUATE STUDY BEFORE DECEMBER 31, 2018**

(a) This section shall apply to applicants for licensure or registration who began graduate study before August 1, 2012, and completed that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

(b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marriage and family therapy, couple and family therapy, psychology, clinical psychology, counseling psychology, or either counseling or clinical mental health counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy. The degree shall be obtained from a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this section, a doctor's or

master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester units or 72 quarter units of instruction. This instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment. The coursework shall include all of the following areas:

- (1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.
- (2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.
- (3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, abuse and neglect of older and dependent adults, and geropsychology.
- (4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

ATTACHMENT B



March 14, 2018

Kim Madsen  
Executive Officer  
Board of Behavioral Sciences  
1625 North Market Blvd. Suite 200  
Sacramento, CA 95834

Dear Kim Madsen,

As we have discussed, I am requesting that the board consider revising the language for acceptable degrees eligible for the Marriage and Family Therapy license (LMFT) to include a Clinical Mental Health Counseling degree with a concentration in Marriage, Family and Child Counseling. At Argosy University, we have been looking for ways to increase the portability of degrees across states. Our Master of Arts in Counseling Psychology program currently offered in California is eligible for both the LPCC and LMFT licensure in California but is not eligible for those licensures in many other states. Additionally, as you are aware, more states are requiring CACREP accreditation for eligibility for licensure in their states. This places us in a catch 22 where what is accepted in California is not accepted in other states and what is accepted by many other states is limited in California. I'm sure you and the board do not want to disadvantage your residents who are required to relocate to other states. By revising the language of the law to accept a Master of Arts in Clinical Mental Health Counseling degree with a concentration in Marriage, Family and Child Counseling, you will fulfill the goals of the law (training in systems theory and MFT work) while opening the students to greater portability across states.

Let me know if I can be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Joffrey S. Suprina".

Joffrey S. Suprina, PhD. LMHC, NCC  
National Dean  
College of Counseling, Psychology and Social Sciences  
Argosy University  
941-554-1567

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# SECTION 1: THE LEARNING ENVIRONMENT

The following Standards apply to all entry-level and doctoral-level programs for which accreditation is being sought unless otherwise specified.

## THE INSTITUTION

- A. The academic unit is clearly identified as part of the institution's graduate degree offerings and has primary responsibility for the preparation of students in the program. If more than one academic unit has responsibility for the preparation of students in the program, the respective areas of responsibility and the relationships among and between them must be clearly documented.
- B. The institutional media accurately describe the academic unit, the core counselor education program faculty, and each program and specialty area offered, including admissions criteria, accreditation status, methods of instruction, minimum degree requirements, matriculation requirements, and financial aid information.
- C. The institution is committed to providing the program with sufficient financial support to ensure continuity, quality, and effectiveness in all of the program's learning environments.
- D. The institution provides opportunities for graduate assistantships for program students that are commensurate with graduate assistantship opportunities in other clinical programs in the institution.
- E. The institution provides support for counselor education program faculty to participate in professional activities, scholarly activities, and service to the profession.
- F. The institution provides learning resources appropriate for scholarly inquiry, study, and research relevant to counseling and accessible by all counselor education program faculty and students.
- G. The institution provides technical support to all counselor education program faculty and students to ensure access to information systems for learning, teaching, and research.
- H. The institution provides information to students in the program about personal counseling services provided by professionals other than counselor education program faculty and students.
- I. The institution provides adequate and appropriate access to counseling instruction environments (on or off campus) that are conducive to training and supervision of individual and group counseling. The counseling instruction environments include technologies and other observational capabilities as well as procedures for maintaining privacy and confidentiality.

## THE ACADEMIC UNIT

- J. Entry-level degree specialty areas in Addiction Counseling; Clinical Mental Health Counseling; Clinical Rehabilitation Counseling; and Marriage, Couple, and Family

Counseling consist of approved, graduate-level study with a minimum of 60 semester credit hours or 90 quarter credit hours required of all students. Until June 30, 2020, Career Counseling, College Counseling and Student Affairs, and School Counseling specialty areas require a minimum of 48 semester hours or 72 quarter hours. Beginning July 1, 2020, all entry-level degree programs require a minimum of 60 semester credit hours or 90 quarter credit hours for all students.

- K. The academic unit makes continuous and systematic efforts to attract, enroll, and retain a diverse group of students and to create and support an inclusive learning community.
- L. Entry-level admission decision recommendations are made by the academic unit's selection committee and include consideration of each applicant's (1) relevance of career goals, (2) aptitude for graduate-level study, (3) potential success in forming effective counseling relationships, and (4) respect for cultural differences.
- M. Before or at the beginning of the first term of enrollment in the academic unit, the program provides a new student orientation during which a student handbook is disseminated and discussed, students' ethical and professional obligations and personal growth expectations as counselors-in-training are explained, and eligibility for licensure/certification is reviewed.
- N. The student handbook includes (1) the mission statement of the academic unit and program objectives, (2) information about professional counseling organizations, opportunities for professional involvement, and activities appropriate for students, (3) matriculation requirements, (4) expectations of students, (5) academic appeal policy, (6) written endorsement policy explaining the procedures for recommending students for credentialing and employment, and (7) policy for student retention, remediation, and dismissal from the program.
- O. Counselor education programs have and follow a policy for student retention, remediation, and dismissal from the program consistent with institutional due process policies and with the counseling profession's ethical codes and standards of practice.
- P. Students in entry-level programs have an assigned advisor at all times during the program who helps them develop a planned program of study.
- Q. The academic unit makes continuous and systematic efforts to recruit, employ, and retain a diverse faculty to create and support an inclusive learning community.
- R. The academic unit has faculty resources of appropriate quality and sufficiency to meet the demands of the program. For entry-level programs, the academic unit must employ a minimum of three full-time core counselor education program faculty members who teach in the entry-level program. Core counselor education program faculty may only be designated as core faculty at one institution.
- S. To ensure that students are taught primarily by core counselor education program faculty, for any calendar year, the combined number of course credit hours taught by non-core faculty must not exceed the number of credit hours taught by core faculty.
- T. For any calendar year, the ratio of full-time equivalent (FTE) students to FTE faculty should not exceed 12:1.
- U. The teaching and advising loads, scholarship, and service expectations of counselor education program faculty members are consistent with the institutional mission and the recognition that counselor preparation programs require extensive clinical instruction.
- V. Clerical assistance is available to support faculty/program activities and is commensurate with that provided for similar graduate programs.



## FACULTY AND STAFF

- W. Core counselor education program faculty have earned doctoral degrees in counselor education, preferably from a CACREP-accredited program, or have related doctoral degrees and have been employed as full-time faculty members in a counselor education program for a minimum of one full academic year before July 1, 2013.
- X. Core counselor education program faculty identify with the counseling profession (1) through sustained memberships in professional counseling organizations, (2) through the maintenance of certifications and/or licenses related to their counseling specialty area(s), and (3) by showing evidence of sustained (a) professional development and renewal activities related to counseling, (b) professional service and advocacy in counseling, and (c) research and scholarly activity in counseling commensurate with their faculty role.
- Y. Within the structure of the institution's policies, the core counselor education program faculty have the authority to determine program curricula and to establish operational policies and procedures for the program.
- Z. Non-core faculty may be employed who support the mission, goals, and curriculum of the counselor education program. They must have graduate or professional degrees in a field that supports the mission of the program.
- AA. The core counselor education program faculty orient non-core faculty to program and accreditation requirements relevant to the courses they teach.
- BB. All core and non-core counselor education program faculty have relevant preparation and experience in relation to the courses they teach.
- CC. A core counselor education program faculty member is clearly designated as the academic unit leader for counselor education; this individual must have a written job description that includes (1) having responsibility for the coordination of the counseling program(s), (2) responding to inquiries regarding the overall academic unit, (3) providing input and making recommendations regarding the development of and expenditures from the budget, (4) providing or delegating year-round leadership to the operation of the program(s), and (5) receiving release time from faculty member responsibilities to administer the academic unit.
- DD. A program faculty member or administrator is identified as the practicum and internship coordinator for the academic unit and/or program; this individual must have a written job description that includes (1) having responsibility for the coordination of practicum and internship experiences in designated counselor education program(s), and (2) responding to inquiries regarding practicum and internship.

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1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members **Date:** February 20, 2019  
**From:** Rosanne Helms **Telephone:** (916) 574-7897  
Legislative Analyst  
**Subject: Regulations to Implement AB 2138**

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### **Summary of AB 2138**

AB 2138 (Chiu, Chapter 995, Statutes of 2018) made significant changes to the Board's enforcement process. It becomes effective on July 1, 2020. Key provisions are as follows:

- Only permits a board to deny a license on grounds that an applicant has been convicted of a crime or has been subject to formal discipline if either of these are met (Business and Professions Code (BPC) §480(a):
  1. The conviction was within 7 years of the date of the application and is substantially related to the qualifications, functions, or duties of the profession. The 7-year limit does not apply to convictions for a serious felony (defined in Penal Code §1192.7), or for those who must register as a sex offender as described in Penal Code §290(d)(2) or (3).
  2. The applicant has been subject to formal discipline by a licensing board within the past 7 years for professional misconduct that would have been cause for disciplinary action by the Board and is substantially related to the profession. (The prior disciplinary action cannot be used to deny if it was based on a dismissed or expunged conviction.)
- Prohibits a board from requiring that an applicant for licensure disclose information about his or her criminal history. However, a board is permitted to request it for the purpose of determining substantial relationship or evidence of rehabilitation. In such a case, the applicant must be informed that the disclosure is voluntary and failure to disclose will not be a factor in a board's decision to grant or deny an application. (BPC §480(f)(2))
- Requires each board to develop criteria to determine whether a crime is substantially related to the qualifications, functions, or duties of the profession. These criteria will aid the board when considering the denial, suspension, or revocation of a license. The criteria must include all of the following (BPC §481):
  1. The nature and gravity of the offense.
  2. The number of years elapsed since the date of the offense.

3. The nature and duties of the profession in which the applicant seeks licensure or is licensed.
- Prohibits a board from denying a license based on a conviction without considering evidence of rehabilitation. (BPC §481)
  - Requires each board to develop criteria to evaluate rehabilitation when considering denying, suspending, or revoking a license. A showing of rehabilitation shall be considered if the applicant or licensee has been completed their criminal sentence without a violation of parole or probation, or if the board finds its criteria for rehabilitation has been met. (BPC §482)

### **Proposed Regulations**

The Board must amend its regulations (shown in **Attachment A**) in order to implement the requirements of AB 2138. Currently, the Board defines substantial relationship criteria and criteria for rehabilitation in regulation sections 1812, 1812, and 1814 (**Attachment B**). However, AB 2138 requires the criteria to be outlined in greater detail.

Key amendments to the regulations are as follows:

1. **Substantial Relationship Criteria (§1812):** Includes professional misconduct in the substantial relationship determination, since §480(a)(2) of AB 2138 includes this as an option.
2. **Substantial Relationship Criteria (§1812):** Includes the nature and gravity of the offense, years elapsed since the offense, and the nature and duties of the profession as criteria for determining whether a crime is substantially related. AB 2138 requires this via §481(b).
3. **Substantial Relationship Criteria (§1812):** Adds language that substantially related crimes include, but are not limited to, violations of Chapter 1 of Article 6 of Division 2 of the Business and Professions Code (these provisions cover rebates, refunds, and discounts, and also false advertising), or violations of any of the Board's practice acts.
4. **Criteria for Rehabilitation (§§1813 and 1814):** The criteria for rehabilitation for denial of licensure (§1813) and for suspensions or revocations (§1814) was expanded upon based on the requirements of AB 2138 §482 and based upon guidance from the DCA Legal Affairs Division.
5. **Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (§1888):** The Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Uniform Standards) are incorporated by reference via §1888 of the regulations. A portion of Uniform Standards need to be updated because they detail the Board's criteria for rehabilitation, which AB 2138 updated.
6. **Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Cover and Pg. 38):** Page 38 of this document references the Board's criteria for rehabilitation. AB 2138 updated these criteria, and therefore the criteria listed on this page are outdated. Therefore, the section has been updated to directly reference the criteria as listed in section 1814 of the regulations. A section reference on this page has

also been updated, and the date on the cover page of the document will be updated with the date OAL determines that the new regulations go into effect upon approval.

*(Please note that as regulations affecting the same text cannot be run concurrently, the urgency of the AB 2138 regulations requires that the Board's "Enforcement Process" regulations, which proposed significant and extensive changes to the Uniform Standards document, and which had been in the DCA initial review process since July 2017, must be placed on hold.)*

- 7. Required Actions Against Registered Sex Offenders (§1888.1):** Section 480(a)(1)(A) of AB 2138 permits denial of a license for sex offense crimes that require registration pursuant to Penal Code (PC) Section 290(d)(2) or (3). PC §290 outlines sex offense violations by type of offense and length of registration required (See **Attachment D** for text of Penal Code §290).

Regulation §1888.1 needs to be updated because by specifying PC 290(d)(2) or (3) for sex offense denials, AB 2138 narrowed denials for sex offenses. Therefore, §1888.1 of the regulations must be amended to reflect this.

### **Policy and Advocacy Committee**

At its February 8, 2019 meeting, the Policy and Advocacy Committee considered the proposed language, and recommended that it be brought to the Board for consideration as a regulatory proposal.

### **Recommendation**

Conduct an open discussion about the proposed language. Motion if language approved:

To approve the proposed text for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period; to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

### **Attachments**

**Attachment A:** Proposed Regulations

**Attachment B:** Current Law: Substantial Relationship Criteria and Criteria for Rehabilitation

**Attachment C:** AB 2138 Text

**Attachment D:** Penal Code §290 (Effective January 1, 2021)

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## §1812. SUBSTANTIAL RELATIONSHIP CRITERIA

(a) For purposes of denial, suspension, or revocation of a license or registration pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under Chapters 13, 13.5, 14, and 16 of Division 2 of the Code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her the license in a manner consistent with the public health, safety or welfare.

(b) In making the substantial relationship determination required under subdivision (a) for a crime, the board shall consider the following criteria:

1. The nature and gravity of the offense;
2. The number of years that have elapsed since the date of the offense;
3. How the offense relates to the nature and duties of a marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor.

(c) For purposes of subdivision (a), substantially related crimes, professional misconduct, or acts shall include, but are not limited to, the following:

1. Any violation of Article 6, Chapter 1, Division 2 of the Code.
2. Any violation of the provisions of Chapter 13, 13.5, 13.7, 14, or 16 of Division 2 of the Code.

Note: Authority cited: Sections 481, 493, 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 141, 480, 481, 490, 493, 4982, 4989.54, 4992.3, and 4999.90, Business and Professions Code.

## §1813. CRITERIA FOR REHABILITATION - DENIAL OF LICENSURE

(a) When considering the denial of a license or registration under Section 480 of the Code, Business and Professions Code on the ground that the applicant was convicted of a crime, the board shall consider whether the applicant made a showing of rehabilitation and is presently eligible for a license, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria: ~~the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:~~

- (1) The nature and gravity of the crime(s).
- (2) The length(s) of the applicable parole or probation period(s).
- (3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.
- (4) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(b) If subdivision (a) is inapplicable, or the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating an applicant's rehabilitation. The board shall find that the applicant made a showing of rehabilitation and is presently eligible for a license if, after considering the following criteria, the board finds that the applicant is rehabilitated:

~~(a)(1)~~ The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

~~(b)(2)~~ Evidence of any act(s) or crime(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial ~~which also could be considered as grounds for denial under Section 480 of the Code.~~ under Section 480 of the Business and Professions Code.

~~(c)(3)~~ The time that has elapsed since commission of the act(s) or crime(s) referred to in ~~Section 480 of the Code.~~ subdivision (1) or (2).

~~(d)(4)~~ ~~The extent to which~~ Whether the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.

(5) The criteria in subdivision (a)(1)-(5), as applicable.

~~(e)(6)~~ Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 482, 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 141, 480, 481, and 482, 488 and 493, Business and Professions Code.

## **§ 1814. CRITERIA FOR REHABILITATION - SUSPENSIONS OR REVOCATIONS**

(a) When considering the suspension or revocation of a license, ~~the board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:~~ on the ground that the holder of the license has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(1) The nature and gravity of the crime(s).

(2) The length(s) of the applicable parole or probation period(s).

(3) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(4) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.



(5) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for the modification.

(b) If subdivision (a) is inapplicable, or the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subdivision (a), the board shall apply the following criteria in evaluating a licensee's rehabilitation. The board shall find that the licensee made a showing of rehabilitation if, after considering the following criteria, the board finds that the applicant is rehabilitated:

(1) ~~The nature~~Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.

(2) Evidence of any act(s) or crimes committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation referred to in subdivision (1) or (2).

(4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.

(5) The criteria in subdivision (a)(1)-(5) , as applicable.

~~(5)~~(6) If applicable, evidence of expungement/dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6)~~(7) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent or immaterial.

~~(7)~~(8) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.

~~(8)~~(9) Evidence, if any, of rehabilitation submitted by the licensee.

~~(b)~~(c) When considering a petition for reinstatement of a license or registration under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 1813 of this article.

Note: Authority cited: Sections 482, 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 141, 480, 481, 482, and 490, 488, and 493, Business and Professions Code.

## **§1888. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES**

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Behavioral Sciences shall consider the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" [Rev. October 2015(OAL TO INSERT EFFECTIVE DATE)] which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform

Standards Related to Substance Abuse apply to cases of substance abuse. Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

- (b) Notwithstanding subsection (a), if the conduct found to be a violation involves drugs and/or alcohol, the violation is a substance abuse violation for purposes of Section 315 of the Code. If the licensee or registrant does not rebut that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation.
- (c) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, 4980.60 and 4990.20, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, 4982, 4989.54, 4992.3, and 4999.90, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

### **§1888.1 REQUIRED ACTIONS AGAINST REGISTERED SEX OFFENDERS**

- (a) Except as otherwise provided by law, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:
  - (1) Deny an application by the individual for licensure and registration, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the crime meets the conditions for denial specified in Section 480 of the Business and Professions Code.
  - (2) Revoke the license or registration of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license or registration on probation.
  - (3) Deny any petition to reinstate or reissue the individual's license or registration.
- (b) This section shall not apply to any of the following:
  - (1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.
  - (2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code, provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to deny or discipline a license or registration under any other provision of state law based upon the licensee's or registrant's conviction under Section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license or registration shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license or registration shall govern.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections [480](#), 4980.40, 4989.24, 4990.30, 4996.2, 4999.42, and 4999.51, Business and Professions Code.

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**State of California**

**Department of Consumer Affairs**

**Board of Behavioral Sciences**

The seal of the California Board of Behavioral Sciences is a circular emblem. It features a central figure of a woman in classical attire, holding a torch and a scale. The text "CALIFORNIA BOARD OF" is arched across the top, and "EUREKA" is written below it. The bottom of the seal contains the text "THE CALIFORNIA BOARD OF BEHAVIORAL SCIENCES".

**UNIFORM STANDARDS RELATED  
TO SUBSTANCE ABUSE AND  
DISCIPLINARY  
GUIDELINES**

**Revised: ~~October 2015~~ (OAL TO INSERT EFFECTIVE DATE)**

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web site at [www.bbs.ca.gov](http://www.bbs.ca.gov).

## INTRODUCTION

The Board of Behavioral Sciences (hereinafter “the Board”) is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following uniform standards related to substance abuse and recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of four parts:

I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or a controlled substance, or whose license or registration is on probation due to a substance abuse violation;

II. Penalty Guidelines - an identification of the types of violations and range of penalties for which discipline may be imposed;

III. Model Disciplinary Orders - language for proposed terms and conditions of probation; and

IV. Board Policies and Guidelines – for various enforcement actions.

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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# **I. Uniform Standards Related to Substance Abuse**

## **Uniform Standards For Licensees Or Registrants Whose License Or Registration Is On Probation Due To A Substance Abuse Violation**

The following standards shall apply in all cases in which a license or registration is placed on probation due, in part, to a substance abuse violation, unless the licensee or registrant rebuts that the violation is a substance abuse violation.

### **Clinical Diagnostic Evaluations**

Whenever a licensee or registrant is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The following practice restrictions apply to each licensee or registrant who undergoes a clinical diagnostic evaluation:

1. The Board shall suspend the license or registration during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
2. While awaiting the results of a clinical diagnostic evaluation, the licensee or registrant shall be randomly drug tested at least two (2) times per week.

### **Clinical Diagnostic Evaluation Report**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee or registrant has a substance abuse problem, whether the licensee or registrant is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice, restrictions, or other recommendations related to the licensee or registrant's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, business or professional relationship with the licensee or registrant. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee or registrant is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee or registrant is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee or registrant based on the application of the following criteria:

1. License or registration type;
2. Licensee or registrant's history;
3. Documented length of sobriety;
4. Scope and pattern of substance abuse;
5. Treatment history;
6. Medical history;
7. Current medical condition;
8. Nature, duration and severity of substance abuse problem; and
9. Whether the licensee or registrant is a threat to himself or herself or others.

No licensee or registrant shall be returned to practice until he or she has at least 30 calendar days of negative drug tests.

When determining if the licensee or registrant should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license or registration type, licensee or registrant's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee or registrant is a threat to himself or herself or others.

### **Supervisor Requirements**

If the Board determines that a supervisor is necessary for a particular licensee or registrant, the supervisor must meet the following requirements to be considered for approval by the Board:

1. The supervisor shall not have a current or former financial, personal, business or professional relationship with the licensee or registrant, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee or registrant's employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee or registrant's supervisor be an employee or supervisee of the licensee or registrant.

2. The supervisor's license scope of practice shall include the scope of practice of the licensee or registrant who is being monitored or be another health care professional if no supervisor with like scope of practice is available.
3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
4. The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee or registrant's disciplinary order and agrees to monitor the licensee or registrant as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee or registrant:

1. Have a face-to-face contact with the licensee or registrant in the work environment on as frequent a basis as determined by the Board, but at least once per week.
2. Interview other staff in the office regarding the licensee or registrant's behavior, if applicable.
3. Review the licensee or registrant's work attendance.

Reporting by the supervisor to the Board shall be as follows:

1. Any suspected substance abuse must be orally reported to the Board and the licensee or registrant's employer within one (1) business day of occurrence. If the occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
  - a. the licensee or registrant's name;
  - b. license or registration number;
  - c. supervisor's name and signature;
  - d. supervisor's license number;
  - e. worksite location(s);
  - f. dates licensee or registrant had face-to-face contact with supervisor;
  - g. worksite staff interviewed, if applicable;
  - h. attendance report;
  - i. any change in behavior and/or personal habits; and

- j. any indicators that can lead to suspected substance abuse.

The licensee or registrant shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

### **Chemical Dependency Support or Recovery Group Meetings**

If the Board requires a licensee or registrant to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

1. the licensee or registrant's history;
2. the documented length of sobriety;
3. the recommendation of the clinical diagnostic evaluator;
4. the scope and pattern of substance abuse;
5. the licensee or registrant's treatment history; and
6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee or registrant is required to participate in must meet the following requirements:

1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
2. Be licensed or certified by the state or other nationally certified organizations to provide substance abuse recovery services;
3. Does not have a financial, personal, business or professional relationship with the licensee or registrant within the last year;
4. Must provide the Board a signed document showing the licensee or registrant's name, the group name, the date and location of the meeting, the licensee or registrant's attendance, and the licensee or registrant's level of participation and progress.
5. Must report to the Board any unexcused absence of a Board licensee or registrant being required to participate within 24 hours.

### **Major and Minor Violations**

Major violations include, but are not limited to, the following:

1. Failure to complete any Board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing more than one minor violations of probation conditions and terms;
4. Treating a patient while under the influence of drugs or alcohol;

5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
6. Failure to report for drug and alcohol testing when ordered;
7. Testing positive for alcohol and/or a controlled substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

1. License or registration shall be suspended;
2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
4. Contract or agreement previously made with the Board shall be terminated; and
5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a supervisor and/or monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or registrant or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation and/or testing.

### **Positive Test for Alcohol and/or a Controlled Substance**

If a licensee or registrant tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license or registration;

- Immediately contact the licensee or registrant and inform him or her that his or her license or registration has been suspended and he or she may not practice until the suspension is lifted; and
- Immediately notify the licensee or registrant's employer that the license or registration has been automatically suspended, and that he or she may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee or registrant and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

### **Drug Testing Standards**

The drug testing standards below shall apply to each licensee or registrant subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

1. Drug testing may be required on any day, including weekends and holidays.
2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
3. Licensees or registrants shall be required to make daily contact as directed to determine if drug testing is required.
4. Licensees or registrants shall be drug tested on the date of notification as directed by the Board.
5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
8. Collection of specimens shall be observed.
9. Prior to vacation or absence, alternative drug testing location(s) must be approved by the Board.

10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

### **Drug Testing Frequency Schedule**

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

<b>Level</b>	<b>Year of Probation</b>	<b>Minimum Range Number of Random Tests</b>
I	Year 1	52-104 per year
II	Years 2 through 5	36-104 per year
III	After Year 5	Once per month*

\*If no positive drug tests in the previous 5 consecutive years.

The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee or registrant has violated the prescribed testing program, or finds that a licensee or registrant has committed a major violation, it may re-establish the testing cycle by placing that licensee or registrant at the beginning of Level I. This is in addition to any other disciplinary action.

### **Drug Testing Frequency Schedule Exceptions**

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

1. Licensee or Registrant Demonstrates Previous Testing and Sobriety

The licensee or registrant can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent to the standard.

## 2. Violations Outside of Employment

A licensee or registrant whose license or registration is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven years from each other, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

## 3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee or registrant is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee or registrant returns to practice, the licensee or registrant shall notify and obtain approval from the Board. The licensee or registrant shall then be subject to Level I testing frequency for at least 60 days. If the licensee or registrant had not previously met the Level I frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant had previously met the Level I frequency standard, the licensee or registrant shall be subject to Level II testing after completing Level I testing for at least 60 days.

## 4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee or registrant shall notify the Board upon his or her return to California and shall be subject to testing as provided in the testing frequency standard. If the licensee or registrant returns to practice and has not previously met the Level I testing frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant has previously met the Level I testing frequency standard, then Level II shall be in effect.

## 5. Substance Use Disorder Not Diagnosed

If a licensee or registrant is not diagnosed with a current substance use disorder, a lesser period of monitoring and toxicology screening may be adopted by the Board. This period may not be less than 24 times per year.



### **Criteria to Petition to Return to Practice**

In order to petition to return to full time practice, a licensee or registrant shall have demonstrated all of the following:

1. Sustained compliance with his or her current recovery program;
2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to his or her substance abuse;
3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
4. Complete compliance with the other terms and conditions of his or her program.

### **Criteria to Petition for Reinstatement to Unrestricted License or Registration**

In order to petition for reinstatement to a full and unrestricted license or registration, a licensee or registrant shall meet all of the following criteria:

1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
2. Demonstrated successful completion of a rehabilitation program (if required);
3. Demonstration of a consistent and sustained participation in activities that promote and support his or her recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
4. Demonstrated ability to practice safely; and
5. Continuous sobriety for at least three (3) to five (5) years.

## II. Penalty Guidelines

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. Except as provided in the Uniform Standards Related to Substance abuse, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
MFT: B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The law requires revocation/denial of license or registration.</p>
MFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. <b>or</b> Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(l), 4992.33 CCR § 1881(f) LEP B&P § 4989.58 B&P § 4989.54(n) LPCC: B&P § 4999.90(k) GP: B&P § 480, 726	Sexual Misconduct (Anything other than as defined in B&P Section 729)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Take and pass licensure examinations as a condition precedent to resumption of practice</li> <li>• 7 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>• Supervised practice</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul> <p>(See B&amp;P 4982.26, 4989.58, 4992.33)</p> <p>The Board considers this reprehensible offense to warrant revocation/denial.</p>

		<ul style="list-style-type: none"> <li>• Psychotherapy</li> <li>• Education</li> <li>• Take and pass licensure examination</li> <li>• Reimbursement of probation program</li> </ul> <p>And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, reimbursement of probation program costs.</p>	
<p>MFT: B&amp;P § 4982(k)  LCSW: B&amp;P § 4992.3(l)  CCR § 1881(f)  LEP: B&amp;P § 4989.54(n)  LPCC: B&amp;P § 4999.90(k)  GP: B&amp;P § 480</p>	<p>Commission of an Act Punishable as a Sexually Related Crime</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• Psychotherapy</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Psychological/psychiatric evaluation as a condition precedent to the resumption of practice</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(c),  4982.1  LCSW: B&amp;P § 4992.3(c),  4992.35  LEP: , 4989.54(c)  LPCC: B&amp;P § 4999.90(c)  GP: B&amp;P § 480, 820</p>	<p>Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>• 5 years probation; standard terms and conditions</li> <li>• Supervised practice</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul> <p><u>In addition:</u></p> <ul style="list-style-type: none"> <li>• MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

		<ul style="list-style-type: none"> <li>• PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice</li> <li>• CHEMICAL DEPENDENCY Random drug and alcohol testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; therapy; rehabilitation program; abstain from controlled substances/use of alcohol; and if warranted: restricted practice.</li> </ul>	
<p>MFT: B&amp;P § 4982(c), 4982.1</p> <p>LCSW: B&amp;P § 4992.3(c), 4992.35</p> <p>LEP: B&amp;P § 4989.54(c), 4989.56</p> <p>LPCC: B&amp;P § 4999.90(c)</p> <p>GP: B&amp;P § 480</p>	Chemical Dependency / Use of Drugs With Client While Performing Services	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation</li> <li>• Random drug and alcohol testing</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric/clinical diagnostic evaluation</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Rehabilitation program</li> <li>• Abstain from controlled substances/use of alcohol</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychotherapy; restricted practice</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
<p>MFT: B&amp;P § 4982(i)</p> <p>LCSW: B&amp;P § 4992.3(j) CCR § 1881(d)</p> <p>LEP: B&amp;P § 4989.54(m)</p> <p>LPCC: B&amp;P § 4999.90(i)</p> <p>GP: B&amp;P § 480</p>	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 90-120 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> <p>And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d) CCR § 1881(m) LEP: B&P § 4989.54(k) LPCC: B&P § 4999.90(d) GP: B&P § 480	Gross Negligence / Incompetence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension; 5 years probation</li> <li>• Standard terms and conditions; supervised practice</li> <li>• Education</li> <li>• Take and pass licensure examinations</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs;</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery; reimbursement of probation program</li> </ul> And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, law and ethics course.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<p align="center"><b>Statutes and Regulations</b></p> <p>Business and Professions Code: (B&amp;P)  Title 16, California Code of Regulations: (CCR)  General Provisions: (GP)  Penal Code: (PC)  Welfare and Institutions Code: (WI)</p>	<p align="center"><b>Violation Category</b></p>	<p align="center"><b>Minimum Penalty</b></p>	<p align="center"><b>Maximum Penalty</b></p>
<p>MFT: B&amp;P § 4980.40(e), 4982(a)  LCSW: B&amp;P § 4992.3(a), 4996.2(d), 4996.18(b)  LEP: B&amp;P § 4989.20(a)(3), 4989.54(a)  LPCC: B&amp;P § 4999.90(a)  GP: B&amp;P § 480, 490, 493</p>	<p>Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant</p>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Supervised practice</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense).</li> </ul> <p>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.</p> <p>DRUGS AND ALCOHOL: Add: Random drug and alcohol testing, psychological/psychiatric/clinical diagnostic evaluation; psychotherapy; supervised practice, rehabilitation program; abstain from controlled substances/use of alcohol, and if warranted: restricted practice.</p> <p>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.</p>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(k) CCR § 1881(e) LEP: B&P § 4989.54(g) LPCC: B&P § 4999.90(j) GP: B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Law and ethics course</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980.02, 4982(l), 4982(s), 4982(t) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(m) 4996.9 CCR § 1881(g), 1881(h) LEP: B&P § 4989.14 4989.54(r) CCR § 1858(b)  LPCC: B&P § 4999.90(l), 4999.90(s) 4999.90(t) GP: B&P § 480	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul style="list-style-type: none"> <li>• Determine the appropriate penalty by comparing the violation under the other state with California law.</li> </ul> And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>



<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P § 4992.7 LEP: B&P § 4989.54(b) LPCC: B&P § 4999.90 (b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration application;</li> <li>• Cost recovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4980, 4982(f) CCR § 1845(a), 1845(b) LCSW: B&P § 4992.3(f), 4996 CCR § 1881(a) LEP: B&P § 4989.54(l) LPCC: B&P § 4999.90(f) GP: B&P § 480	Misrepresentation of License / Qualifications	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: take and pass licensure examinations.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery.</li> </ul>
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(r) CCR § 1881(l) LEP: B&P § 4989.54(s) LPCC: B&P § 4999.90(q) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(h), 4992.7 CCR § 1881(b) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 5 years probation</li> <li>• Supervised practice</li> <li>• Standard terms and conditions</li> <li>• Psychological/psychiatric evaluation</li> <li>• Psychotherapy</li> <li>• Cost recovery</li> <li>• Reimbursement of probation costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 60-90 days actual suspension</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Take and pass licensure exams</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 728 LCSW: B&P § 728 LPCC: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1, 1845(b) LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab), CCR § 1858(b) LPCC: B&P § 4999.90(r) 4999.90(t), 4999.90(u)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-90 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul> And if warranted: supervised practice.	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e) 4999.90(u) GP: B&P § 480	Violations of the Chapter or Regulations by licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• Registration on probation until exams are passed and license issued</li> <li>• License issued on probation for one year</li> <li>• Rejection of all illegally acquired hours</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(o) LCSW: B&P § 4992.3(p) CCR § 1881(n) LEP: B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 3-5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> <li>• Law and Ethics course</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation / Denial of license or registration</li> <li>• Cost recovery</li> </ul>
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(o) CCR § 1881(j) LEP: B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 2 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>
MFT: B&P § 4980.46, 4982(p) LCSW: B&P § 4992.3(q) CCR § 1881(k) LEP: B&P § 4989.54(e) LPCC: B&P § 4999.90(p) GP: B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30-60 days actual suspension</li> <li>• 5 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	<b>Violation Category</b>	<b>Minimum Penalty</b>	<b>Maximum Penalty</b>
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: B&P § 4999.90(v)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(x) LEP: B&P § 4989.54(d) LPCC: B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 ( Telehealth)	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 1 year probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery;</li> <li>• Reimbursement of probation program costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Revocation stayed</li> <li>• 30 days actual suspension</li> <li>• 1-3 years probation</li> <li>• Standard terms and conditions</li> <li>• Education</li> <li>• Cost recovery</li> <li>• Reimbursement of probation program costs</li> </ul>

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### III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17- 32).

#### Optional Terms and Conditions of Probation

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

1. Actual suspension
2. Psychological / Psychiatric evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice
6. Education
7. Take and Pass licensure examinations
8. Rehabilitation Program
9. Abstain from Controlled Substances/Submit to Random Drug and Alcohol Testing
10. Abstain from Use of Alcohol /Submit to Random Drug and Alcohol Testing
11. Restricted Practice
12. Restitution
13. Physical Evaluation
14. Monitor Billing System
15. Monitor Billing System Audit
16. Law and Ethics Course

#### 1. Actual Suspension

A. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_ days.

OR

B. Commencing from the effective date of this decision, respondent shall be suspended from the practice of \_\_\_\_\_ for a period of \_\_\_\_\_ days, and such additional time as may be necessary to obtain and review the clinical diagnostic, psychological or psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition #\_\_\_\_ (Take

and pass licensure examinations).

Respondent shall be responsible for informing his or her employer of the Board's decision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board.

## **2. Psychological / Psychiatric Evaluation**

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

*(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).*

## **3. Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if respondent's good faith attempts to secure face-to-face counseling are

unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

*(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).*

#### **4. Clinical Diagnostic Evaluation**

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

#### **5. Supervised Practice**

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in



respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent.

If respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

- (1) Permitting the respondent to receive supervision via videoconferencing; or,
- (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that respondent provide written documentation of his or her good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the respondent's field of practice.]

Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding the Respondent and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

## **6. Education**

Respondent shall take and successfully complete the equivalency of \_\_\_\_ semester units in each of the following areas \_\_\_\_\_. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a course approved by the Board. Classroom attendance must be specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

*(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing and reporting requirements.)*

## **7. Take and Pass Licensure Examinations**

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

## **8. Rehabilitation Program**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The respondent shall take all necessary steps to ensure that the rehabilitation program submits quarterly written reports to the Board addressing the respondent's treatment and progress in the program.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random drug and alcohol testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

## **9. Abstain from Controlled Substances / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**10. Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing**

Respondent shall completely abstain from the intake of alcohol during the period of probation.

Respondent shall immediately submit to random and directed drug and alcohol testing, at respondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and to the supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

**11. Restricted Practice**

Respondent's practice shall be limited to \_\_\_\_\_. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

**12. Restitution**

Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$\_\_\_\_\_ paid to \_\_\_\_\_.

**13. Physical Evaluation**

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information

as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

#### **14. Monitor Billing System**

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the board's approval of such program. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

#### **15. Monitor Billing System Audit**

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

#### **16. Law and Ethics Course**

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education

units required for renewal of licensure.

*(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)*

## **Standard Terms and Conditions of Probation**

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

17. Obey All Laws
18. File Quarterly Reports
19. Comply with Probation Program
20. Interviews with the Board
21. Failure to Practice
22. Change of Place of Employment or Place of Residence
23. Supervision of Unlicensed Persons
24. Notification to Clients
25. Notification to Employer
26. Violation of Probation
27. Maintain Valid License
28. License Surrender
29. Instruction of Coursework Qualifying for Continuing Education
30. Notification to Referral Services
31. Reimbursement of Probation Program
32. Cost Recovery

### **Specific Language for Standard Terms and Conditions of Probation** (To be included in all Decisions)

#### **17. Obey All Laws**

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

#### **18. File Quarterly Reports**

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether

he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

#### **19. Comply with Probation Program**

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

#### **20. Interviews with the Board**

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

#### **21. Failure to Practice**

In the event respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years.

#### **22. Change of Place of Employment or Place of Residence**

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

#### **23. Supervision of Unlicensed Persons**

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

#### **24. Notification to Clients**

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee,

satisfactory evidence of compliance with this term of probation.

*(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).*

## **25. Notification to Employer**

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The Respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the licensee or registrant's work status, performance, and monitoring.

## **26. Violation of Probation**

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

## **27. Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

## **28. License Surrender**

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal

acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

### **29. Instruction of Coursework Qualifying for Continuing Education**

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

### **30. Notification to Referral Services**

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

### **31. Reimbursement of Probation Program**

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$\_\_\_\_\_ per year.

### **32. Cost Recovery**

Respondent shall pay the Board \$\_\_\_\_\_ as and for the reasonable costs of the investigation and prosecution of Case No. \_\_\_\_\_. Respondent shall make such payments as follows: [Outline payment schedule.] Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. \_\_\_\_\_. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, respondent shall be considered to be in violation of probation. A period of non-practice by respondent shall not relieve respondent of his or her obligation to reimburse the board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.



## IV. BOARD POLICIES AND GUIDELINES

### Accusations

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

### Statement of Issues

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

### Stipulated Settlements

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

### Recommended Language for License Surrenders

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

#### Contingency

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a \_\_\_\_\_ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender, respondent may not petition the Board for reinstatement of the surrendered license.

Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited, to filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a \_\_\_\_\_ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No. \_\_\_\_\_ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

### **Recommended Language for Registration Applicants**

IT IS HEREBY ORDERED THAT Respondent \_\_\_\_\_ be issued a Registration as a \_\_\_\_\_. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Registrants**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ Registration Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

### **Recommended Language for Licensees**

IT IS HEREBY ORDERED THAT \_\_\_\_\_ License Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and respondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted another registration or license regulated by the Board.

### ***Proposed Decisions***

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions (17-32) as they may pertain to the

particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

## Reinstatement / Reduction of Penalty Hearings

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider the criteria outlined in Section 1814., pursuant to Section 1814, the following criteria of rehabilitation:

- ~~(1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.~~
- ~~(2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.~~
- ~~(3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.~~
- ~~(4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.~~
- ~~(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.~~
- ~~(6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.~~
- ~~(7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.~~
- ~~(8) Evidence, if any, of rehabilitation submitted by the licensee.~~

In the Petition Decision, the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction/Modification of Penalty under Business and Professions Code Section ~~4982.24~~990.30, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical counselor within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;

F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.

## **ATTACHMENT B**

### **CURRENT LAW: SUBSTANTIAL RELATIONSHIP CRITERIA AND CRITERIA FOR REHABILITATION**

#### **§1812. SUBSTANTIAL RELATIONSHIP CRITERIA**

For purposes of denial, suspension, or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under Chapters 13, 13.5, 14, and 16 of Division 2 of the Code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.

Note: Authority cited: Sections 4980.60 and 4999.20, Business and Professions Code. Reference: Sections 481, 490, 4982, 4989.54, 4992.3, and 4999.90, Business and Professions Code.

#### **§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE**

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 480 and 482, Business and Professions Code.

#### **§ 1814. CRITERIA FOR REHABILITATION - SUSPENSIONS OR REVOCATIONS**

- (a) When considering the suspension or revocation of a license, the board, in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:
  - (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
  - (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.

- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
  - (4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.
  - (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
  - (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent or immaterial.
  - (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
  - (8) Evidence, if any, of rehabilitation submitted by the licensee.
- (b) When considering a petition for reinstatement of a license or registration under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 1813 of this article.

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 482 and 490, Business and Professions Code.

## Assembly Bill No. 2138

### CHAPTER 995

An act to amend, repeal, and add Sections 7.5, 480, 481, 482, 488, 493, and 11345.2 of, and to add Section 480.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2018. Filed with  
Secretary of State September 30, 2018.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2138, Chiu. Licensing boards: denial of application: revocation or suspension of licensure: criminal conviction.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny, suspend, or revoke a license or take disciplinary action against a licensee on the grounds that the applicant or licensee has, among other things, been convicted of a crime, as specified. Existing law provides that a person shall not be denied a license solely on the basis that the person has been convicted of a felony if he or she has obtained a certificate of rehabilitation or that the person has been convicted of a misdemeanor if he or she has met applicable requirements of rehabilitation developed by the board, as specified. Existing law also prohibits a person from being denied a license solely on the basis of a conviction that has been dismissed, as specified. Existing law requires a board to develop criteria to aid it when considering the denial, suspension, or revocation of a license to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates and requires a board to develop criteria to evaluate the rehabilitation of a person when considering the denial, suspension, or revocation of a license.

This bill would revise and recast those provisions to instead authorize a board to, among other things, deny, revoke, or suspend a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime only if the applicant or licensee has been convicted of a crime within the preceding 7 years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or if the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding 7 years, except as specified. The bill would prohibit a board from

denying a person a license based on the conviction of a crime, or on the basis of acts underlying a conviction, as defined, for a crime, if the conviction has been dismissed or expunged, if the person has provided evidence of rehabilitation, if the person has been granted clemency or a pardon, or if an arrest resulted in a disposition other than a conviction.

The bill would require the board to develop criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession. The bill would require a board to consider whether a person has made a showing of rehabilitation if certain conditions are met. The bill would require a board to follow certain procedures when requesting or acting on an applicant's or licensee's criminal history information. The bill would also require a board to annually submit a report to the Legislature and post the report on its Internet Web site containing specified deidentified information regarding actions taken by a board based on an applicant or licensee's criminal history information.

Existing law authorizes a board to deny a license on the grounds that an applicant knowingly made a false statement of fact that is required to be revealed in the application for licensure.

This bill would prohibit a board from denying a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had the fact been disclosed.

Existing law authorizes a board, after a specified hearing requested by an applicant for licensure to take various actions in relation to denying or granting the applicant the license.

This bill would revise and recast those provisions to eliminate some of the more specific options that the board may take in these circumstances.

This bill would clarify that the existing above-described provisions continue to apply to the State Athletic Commission, the Bureau for Private Postsecondary Education, and the California Horse Racing Board.

This bill would also make necessary conforming changes.

This bill would make these provisions operative on July 1, 2020.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7.5 of the Business and Professions Code is amended to read:

7.5. (a) A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.



Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 7.5 is added to the Business and Professions Code, to read:

7.5. (a) A conviction within the meaning of this code means a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) or (c) of Section 480.

(b) (1) Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(A) The State Athletic Commission.

(B) The Bureau for Private Postsecondary Education.

(C) The California Horse Racing Board.

(c) Except as provided in subdivision (b), this section controls over and supersedes the definition of conviction contained within individual practice acts under this code.

(d) This section shall become operative on July 1, 2020.

SEC. 3. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 4. Section 480 is added to the Business and Professions Code, to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.

- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that he or she has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing

with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of his or her complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's Internet Web site and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 5. Section 480.2 is added to the Business and Professions Code, to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false

statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary

Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 6. Section 481 of the Business and Professions Code is amended to read:

481. (a) Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 7. Section 481 is added to the Business and Professions Code, to read:

481. (a) Each board under this code shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(b) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession a board regulates shall include all of the following:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant pursuant to any process established in the practice act or regulations of the particular board and as directed by Section 482.

(d) Each board shall post on its Internet Web site a summary of the criteria used to consider whether a crime is considered to be substantially related to the qualifications, functions, or duties of the business or profession it regulates consistent with this section.

(e) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(f) This section shall become operative on July 1, 2020.

SEC. 8. Section 482 of the Business and Professions Code is amended to read:

482. (a) Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(1) Considering the denial of a license by the board under Section 480;  
or

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 9. Section 482 is added to the Business and Professions Code, to read:

482. (a) Each board under this code shall develop criteria to evaluate the rehabilitation of a person when doing either of the following:

(1) Considering the denial of a license by the board under Section 480.

(2) Considering suspension or revocation of a license under Section 490.

(b) Each board shall consider whether an applicant or licensee has made a showing of rehabilitation if either of the following are met:

(1) The applicant or licensee has completed the criminal sentence at issue without a violation of parole or probation.

(2) The board, applying its criteria for rehabilitation, finds that the applicant is rehabilitated.

(c) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(d) This section shall become operative on July 1, 2020.

SEC. 10. Section 488 of the Business and Professions Code is amended to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 11. Section 488 is added to the Business and Professions Code, to read:

488. (a) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:



(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

(b) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(c) This section shall become operative on July 1, 2020.

SEC. 12. Section 493 of the Business and Professions Code is amended to read:

493. (a) Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(b) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 13. Section 493 is added to the Business and Professions Code, to read:

493. (a) Notwithstanding any other law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

(b) (1) Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

(A) The nature and gravity of the offense.

- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.
- (2) A board shall not categorically bar an applicant based solely on the type of conviction without considering evidence of rehabilitation.
- (c) As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration.”
- (d) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:
  - (1) The State Athletic Commission.
  - (2) The Bureau for Private Postsecondary Education.
  - (3) The California Horse Racing Board.
- (e) This section shall become operative on July 1, 2020.

SEC. 14. Section 11345.2 of the Business and Professions Code is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 15. Section 11345.2 is added to the Business and Professions Code, to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual’s felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser

refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

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**State of California**

**PENAL CODE**

**Section 290**

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290. (a) Sections 290 to 290.024, inclusive, shall be known, and may be cited, as the Sex Offender Registration Act. All references to “the Act” in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the period specified in subdivision (d) while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall register thereafter in accordance with the Act, unless the duty to register is terminated pursuant to Section 290.5 or as otherwise provided by law.

(c) The following persons shall register:

Every person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 287, 288, or 289 or former Section 288a, Section 207 or 209 committed with intent to violate Section 261, 286, 287, 288, or 289 or former Section 288a, Section 220, except assault to commit mayhem, subdivision (b) or (c) of Section 236.1, Section 243.4, Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 287, 288, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, or former Section 288a, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the offenses described in this subdivision; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the offenses described in this subdivision.

(d) A person described in subdivision (c), or who is otherwise required to register pursuant to the Act shall register for 10 years, 20 years, or life, following a conviction

and release from incarceration, placement, commitment, or release on probation or other supervision, as follows:

(1) (A) A tier one offender is subject to registration for a minimum of 10 years. A person is a tier one offender if the person is required to register for conviction of a misdemeanor described in subdivision (c), or for conviction of a felony described in subdivision (c) that was not a serious or violent felony as described in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) This paragraph does not apply to a person who is subject to registration pursuant to paragraph (2) or (3).

(2) (A) A tier two offender is subject to registration for a minimum of 20 years. A person is a tier two offender if the person was convicted of an offense described in subdivision (c) that is also described in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, Section 285, subdivision (g) or (h) of Section 286, subdivision (g) or (h) of Section 287 or former Section 288a, subdivision (b) of Section 289, or Section 647.6 if it is a second or subsequent conviction for that offense that was brought and tried separately.

(B) This paragraph does not apply if the person is subject to lifetime registration as required in paragraph (3).

(3) A tier three offender is subject to registration for life. A person is a tier three offender if any one of the following applies:

(A) Following conviction of a registerable offense, the person was subsequently convicted in a separate proceeding of committing an offense described in subdivision (c) and the conviction is for commission of a violent felony described in subdivision (c) of Section 667.5, or the person was subsequently convicted of committing an offense for which the person was ordered to register pursuant to Section 290.006, and the conviction is for the commission of a violent felony described in subdivision (c) of Section 667.5.

(B) The person was committed to a state mental hospital as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(C) The person was convicted of violating any of the following:

(i) Section 187 while attempting to commit or committing an act punishable under Section 261, 286, 287, 288, or 289 or former Section 288a.

(ii) Section 207 or 209 with intent to violate Section 261, 286, 287, 288, or 289 or former Section 288a.

(iii) Section 220.

(iv) Subdivision (b) of Section 266h.

(v) Subdivision (b) of Section 266i.

(vi) Section 266j.

(vii) Section 267.

(viii) Section 269.

(ix) Subdivision (b) or (c) of Section 288.

(x) Section 288.2.

(xi) Section 288.3, unless committed with the intent to commit a violation of subdivision (b) of Section 286, subdivision (b) of Section 287 or former Section 288a, or subdivision (h) or (i) of Section 289.

(xii) Section 288.4.

(xiii) Section 288.5.

(xiv) Section 288.7.

(xv) Subdivision (c) of Section 653f.

(xvi) Any offense for which the person is sentenced to a life term pursuant to Section 667.61.

(D) The person's risk level on the static risk assessment instrument for sex offenders (SARATSO), pursuant to Section 290.04, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.

(E) The person is a habitual sex offender pursuant to Section 667.71.

(F) The person was convicted of violating subdivision (a) of Section 288 in two proceedings brought and tried separately.

(G) The person was sentenced to 15 to 25 years to life for an offense listed in Section 667.61.

(H) The person is required to register pursuant to Section 290.004.

(I) The person was convicted of a felony offense described in subdivision (b) or (c) of Section 236.1.

(J) The person was convicted of a felony offense described in subdivision (a), (c), or (d) of Section 243.4.

(K) The person was convicted of violating paragraph (2), (3), or (4) of subdivision (a) of Section 261 or was convicted of violating Section 261 and punished pursuant to paragraph (1) or (2) of subdivision (c) of Section 264.

(L) The person was convicted of violating paragraph (1) of subdivision (a) of Section 262.

(M) The person was convicted of violating Section 264.1.

(N) The person was convicted of any offense involving lewd or lascivious conduct under Section 272.

(O) The person was convicted of violating paragraph (2) of subdivision (c) or subdivision (d), (f), or (i) of Section 286.

(P) The person was convicted of violating paragraph (2) of subdivision (c) or subdivision (d), (f), or (i) of Section 287 or former Section 288a.

(Q) The person was convicted of violating paragraph (1) of subdivision (a) or subdivision (d), (e), or (j) of Section 289.

(R) The person was convicted of a felony violation of Section 311.1 or 311.11 or of violating subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, or 311.10.

(4) (A) A person who is required to register pursuant to Section 290.005 shall be placed in the appropriate tier if the offense is assessed as equivalent to a California registerable offense described in subdivision (c).

(B) If the person's duty to register pursuant to Section 290.005 is based solely on the requirement of registration in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a tier two offender, except that the person is subject to registration as a tier three offender if one of the following applies:

(i) The person's risk level on the static risk assessment instrument (SARATSO), pursuant to Section 290.06, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.

(ii) The person was subsequently convicted in a separate proceeding of an offense substantially similar to an offense listed in subdivision (c) which is also substantially similar to an offense described in subdivision (c) of Section 667.5, or is substantially similar to Section 269 or 288.7.

(iii) The person has ever been committed to a state mental hospital or mental health facility in a proceeding substantially similar to civil commitment as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(5) (A) The Department of Justice may place a person described in subdivision (c), or who is otherwise required to register pursuant to the Act, in a tier-to-be-determined category if his or her appropriate tier designation described in this subdivision cannot be immediately ascertained. An individual placed in this tier-to-be-determined category shall continue to register in accordance with the Act. The individual shall be given credit for any period for which he or she registers towards his or her mandated minimum registration period.

(B) The Department of Justice shall ascertain an individual's appropriate tier designation as described in this subdivision within 24 months of his or her placement in the tier-to-be-determined category.

(e) The minimum time period for the completion of the required registration period in tier one or two commences on the date of release from incarceration, placement, or commitment, including any related civil commitment on the registerable offense. The minimum time for the completion of the required registration period for a designated tier is tolled during any period of subsequent incarceration, placement, or commitment, including any subsequent civil commitment, except that arrests not resulting in conviction, adjudication, or revocation of probation or parole shall not toll the required registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under this act, and by three years for each felony conviction of failing to register under this act, without regard to the actual time served in custody for the conviction. If a registrant is subsequently convicted of another offense requiring registration pursuant to the Act, a new minimum time period for the completion of the registration requirement for the applicable tier shall commence upon that person's release from incarceration, placement, or commitment, including any related civil commitment. If the subsequent conviction requiring registration pursuant to the Act occurs prior to an order to terminate the registrant from the registry after completion of a tier associated with



the first conviction for a registerable offense, the applicable tier shall be the highest tier associated with the convictions.

(f) Nothing in this section shall be construed to require a ward of the juvenile court to register under the Act, except as provided in Section 290.008.

(g) This section shall become operative on January 1, 2021.

(Amended (as added by Stats. 2017, Ch. 541, Sec. 2.5) by Stats. 2018, Ch. 423, Sec. 52. (SB 1494) Effective January 1, 2019. Section operative January 1, 2021, by its own provisions. Note: This section was amended on November 6, 2012, by initiative Prop. 35. )

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Board of Behavioral Sciences

# Memo

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1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members

**Date:** February 19, 2019

**From:** Rosanne Helms  
Legislative Analyst

**Telephone:** (916) 574-7897

**Subject:** Agenda Item XXI

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Agenda item XXI (Discussion and Possible Action Regarding License Portability Bill Proposal) will be provided in a supplemental package and will be posted on the website at that time.

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Board of Behavioral Sciences

# Memo

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**To:** Board Members  
**From:** Rosanne Helms  
Legislative Analyst  
**Date:** February 19, 2019  
**Telephone:** (916) 574-7897  
**Subject:** Legislative Update

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Board staff is currently pursuing the following legislative proposals:

1. **Licensed Portability to California (No Bill Number Assigned at This Time)**

This bill proposal represents the work of the Board's License Portability Committee and seeks to remove some of the barriers to inter-state licensure. It proposes a pathway for LMFTs, LCSWs, and LPCCs who are actively licensed in another state and have been so for at least two years, to become licensed in California if they complete continuing education coursework specific to the psychotherapy environment in this state, and if they pass a California law and ethics exam.

2. **AB 630 (Arambula) Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Educational Psychologists: Professional Clinical Counselors: Required Notice**

This bill proposes requiring all settings where psychotherapy is performed to provide clients, prior to initiating services, with a printed notice disclosing where to file a complaint about the therapist.

3. **Omnibus Legislation (Senate Business, Professions, and Economic Development Committee) (No Bill Number Assigned at This Time)**

This bill proposal, approved by the Board at its November 30, 2018 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

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Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

**To:** Board Members

**Date:** February 14, 2019

**From:** Christy Berger  
Regulatory Analyst

**Telephone:** (916) 574-7817

**Subject: Status of Board Rulemaking Proposals**

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### **Enforcement Process**

This proposal would result in updates to the Board's disciplinary process. It would also make updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015)," which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories:

1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017 and began the DCA initial review process in July 2017. This regulation package is currently on hold due to the passage of AB 2138.

### **Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee**

This proposal would amend the Board's examination rescoring provisions to clarify that rescoring pertains only to exams taken via paper and pencil, since all other taken electronically are automatically rescored. This proposal would also make clarifying, non-substantive changes to the Board's application abandonment criteria, and clarify the fee required for subsequent Associate Professional Clinical Counselor registrations. The proposal was approved by the Board at its meeting in November 2017 and began the DCA initial review process in April 2018 and was approved for filing with OAL on January 11, 2019. The approved documents were filed with OAL in order to begin the 45-day public comment period, which begins on February 22, 2019.

### **Supervision**

This proposal would:

- Revise the qualifications to become supervisor;
- Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board;

- Set forth requirements for substitute supervisors;
- Update and strengthen supervisor training requirements;
- Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees;
- Strengthen requirements pertaining to documentation of supervision;
- Make supervision requirements consistent across the three licensed professions;
- Address supervision gained outside of California; and
- Address documentation requirements when a supervisor is Incapacitated or deceased.

The proposal was approved by the Board at its meeting in November 2016, and was held aside while awaiting passage of the Board's supervision legislation (AB 93). Staff is currently preparing the documents necessary to begin the DCA initial review process.

**Registrant Employment – Temporary Staffing Agencies**

AT its November 2018 meeting, the Board approved a proposal that will address registrant employment by temporary staffing agencies. This language will be added into the "Supervision" regulation package listed above.



**BBS REGULATION TIMELINE**

**FEBRUARY 11, 2019**

Regulation Package Name	Date of Board Approval	Submitted to DCA - Initial Review	Submitted to Agency - Initial Review	Date Noticed	Public Hearing Date	Submitted to DCA - Final Review	Submitted to Agency – Final Review	Date Submitted to DOF	Submitted to OAL - Approval	Date OAL Approved
<b>Enforcement Update to Disciplinary Guidelines</b>	3/3/17	7/11/17	9/13/18*							
<b>Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee</b>	11/2/17	4/6/18	9/12/18	To be noticed on 2/22/19	4/8/19					
<b>Supervision</b>	11/4/16**									

\*This package is on hold due to the passage of AB 2138

\*\*This regulation package was held pending passage of AB 93 and is in the process of being prepared for initial review.

DCA and Agency Initial Review Process: Following review by the Board’s attorney and preparation of the required documentation (Notice, Initial Statement of Reasons, and the Fiscal Impact Std. 399), the package is submitted to DCA’s Legislative and Policy Review Division, who routes it through the budget office and legal office for their review and approval. Next, the package is submitted to DCA Executive Office for review/approval. The package is then submitted to Agency for an initial review. Once approved by Agency, the Board is able to submit the package to the Office of Administrative Law (OAL) to Notice the proposed regulation change.

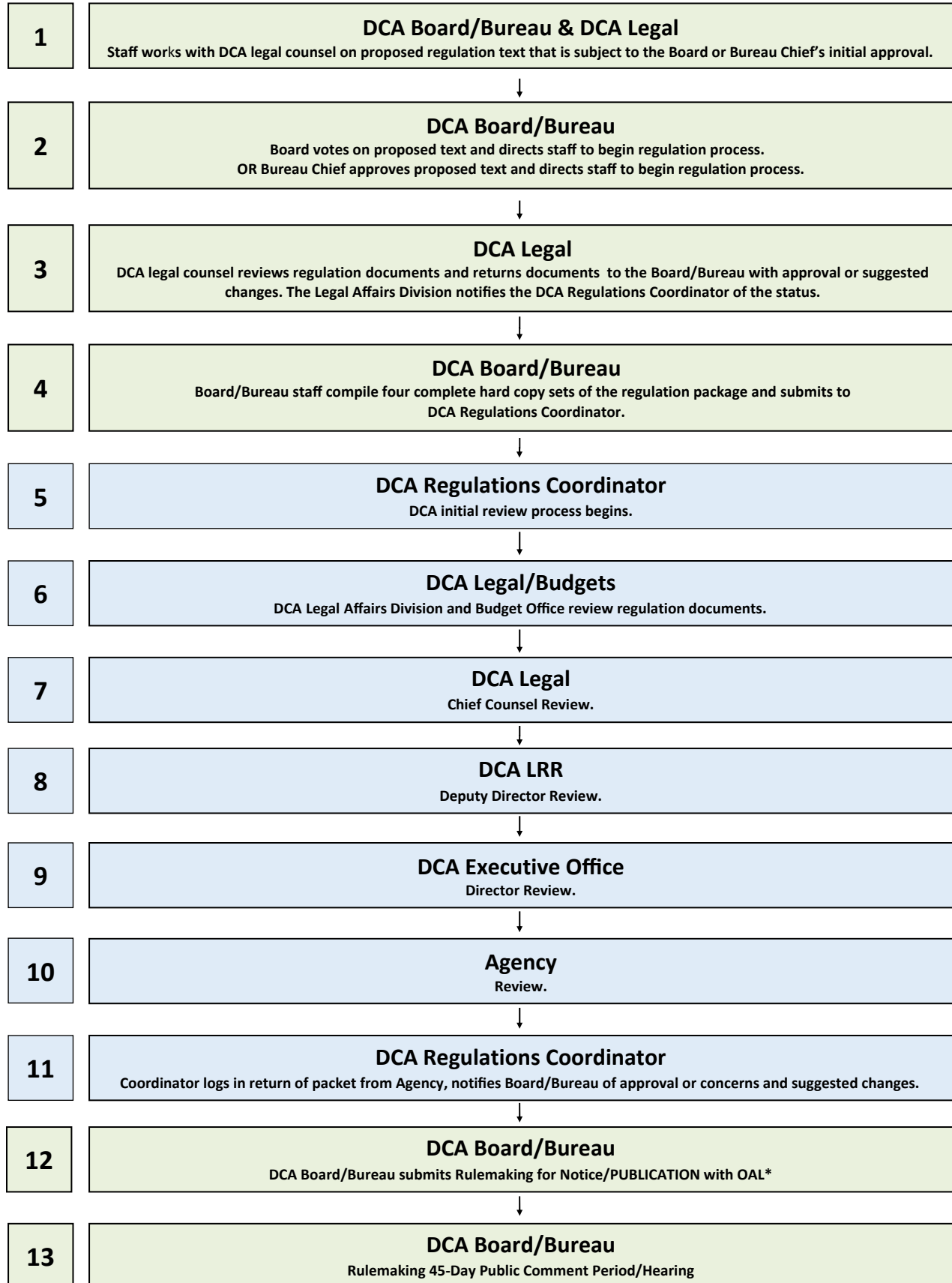
Notice and Public Hearing: The Notice initiates the 45-day public comment period. Following the 45-day comment period, a public hearing is scheduled. The Board must consider all comments submitted. If any substantive changes are made to the text of the proposal, the Board must approve the language again, and provide the public with a 15-day public comment period. If no changes are made to the proposal, the Board submits the package to DCA for final review.

DCA and Agency Final Review: The initial review process is repeated.

Submission to DOF and OAL for Final Approval: Both the Department of Finance and the Office of Administrative Law must approve the regulation package. The review may occur at the same time. However, OAL is the final approval. Once OAL approves the regulation package, the proposal is adopted, and it is assigned an effective date.

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**INITIAL PHASE**



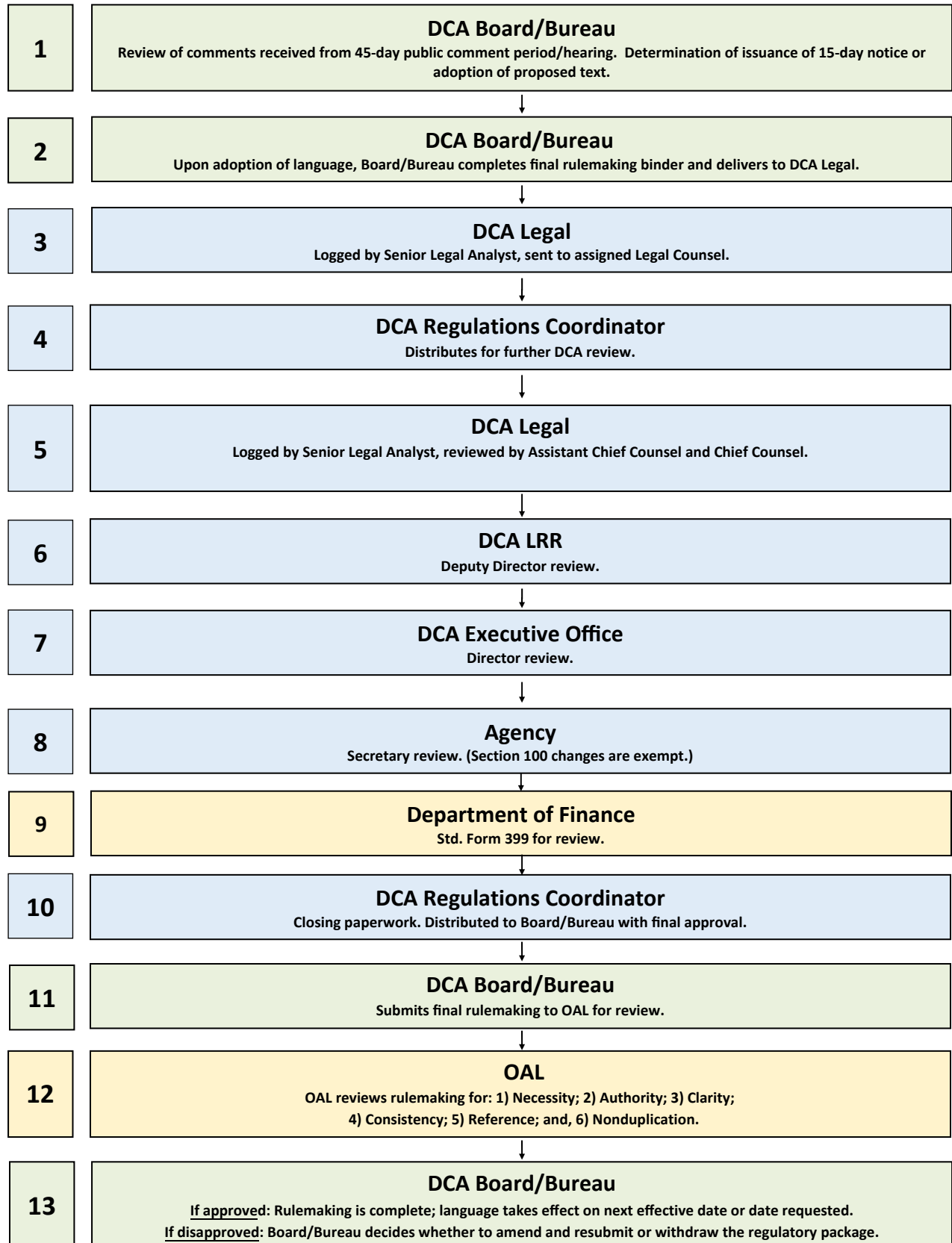
**Legend**

DCA – Department of Consumer Affairs  
 LRR – Division of Legislative Regulatory Review  
 OAL – Office of Administrative Law

\* If any changes to language last approved by the Board are needed, a vote by the Board may be necessary.

# REGULAR RULEMAKING PROCESS—DCA BOARDS/BUREAUS

## FINAL PHASE



### Legend

DCA – Department of Consumer Affairs    DOF – Department of Finance  
LRR – Division of Legislative Regulatory Review    Std. Form 399 – Economic and Fiscal Impact Statement  
OAL – Office of Administrative Law